

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION

UNITED STATES OF AMERICA

VERSUS CIVIL ACTION NO. 3:16-CV-00489-CWR-RHWR

THE HINDS COUNTY BOARD OF SUPERVISORS,
HINDS COUNTY SHERIFF, ET AL. DEFENDANTS

EVIDENTIARY HEARING, VOLUME 6,
BEFORE THE HONORABLE CARLTON W. REEVES,
UNITED STATES DISTRICT COURT JUDGE,
FEBRUARY 22, 2022,
JACKSON, MISSISSIPPI

(Appearances noted herein.)

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19 ELIZABETH SIMPSON
20 DAVID PARRISH
21 SHERIFF TYREE JONES
22 LESLIE FAITH JONES
23 CINDY MOHAN
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25

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1 **IN OPEN COURT, FEBRUARY 22, 2022**

2
3 THE COURT: You may be seated.

4 Good morning. I apologize for the delay. Hope
5 everyone had a good, long weekend. Is there anything we need
6 to take up?

7 All right. All right. Well, Government, you may
8 resume your direct examination of Mr. Moeser.

9 MS. VERA: Thank you, Your Honor.

10 **CONTINUED DIRECT EXAMINATION**

11 **BY MS. VERA:**

12 Q. Good morning, Mr. Moeser.

13 A. Good morning.

14 Q. I'd like to continue. We had discussed when we left off
15 on Friday some incidents involving sexual misconduct at
16 Henley-Young. I want to discuss one more incident report from
17 Henley-Young, and that's the exhibit marked PX-30.

18 Mr. Moeser, this is an incident report dated November 14,
19 2021, involving alleged sexual activity between two girls at
20 Henley-Young. Are you familiar with this incident?

21 A. Yes.

22 Q. Could you please briefly describe what happened in this
23 incident?

24 A. So this report was made about a week after the -- excuse
25 me -- after the actual incident occurred. This particular

1 part of the report was written by one of the mental health
2 clinicians who had been asked to come in and help interview
3 one of the -- at least one of the girls, maybe both girls
4 involved in the incident the week before.

5 In this particular incident the staff member on duty
6 allowed two girls to stay in the same room overnight together
7 and in the report additional information gathered by in this
8 case by Ms. Drake that there had been sexual activity, sexual
9 contact overnight, that they had -- one of the girls had
10 configured her bed so it would look like somebody was sleeping
11 in case the staff member looked through the window, that their
12 actual discovery of them being in the same room happened the
13 next morning when doors were being opened for breakfast, I
14 believe. And neither the staff member involved allowing it to
15 happen, the overnight person did not discover this -- well,
16 she may have -- the overnight person maybe did because they
17 get up early. It might have been the overnight person who let
18 them out in the morning, but neither person reported that
19 immediately to any supervisor or anyone else.

20 Somehow over the next week as the girls talked or
21 information came out, eventually got to Mr. Burnside who came
22 to the facility to find out, I think, for another reason but
23 came and was confronted with this information. He decided it
24 would be more appropriate for Ms. Drake to interview the youth
25 so he called her in to do the interviewing as to what had

1 happened the week before.

2 Q. Okay. So this incident, just so we're clear, what date
3 did the incident occur on?

4 A. November 7th, the night of November 7th.

5 Q. And what's the date of this report?

6 A. Well, it's -- the day is listed as the 14th. I think she
7 actually signed it on the 15th, but I think she wrote it after
8 midnight or right away the next morning. But the date she
9 came in was the 14th.

10 Q. Okay. And do you see about halfway down the selection we
11 have here where it says, "The resident stated she did not tell
12 Mr. Frazier everything because she did not want to get YCP
13 Burrell in trouble."

14 Is YCP Burrell the YCP who was on duty who permitted the
15 girls to sleep together?

16 A. Yes.

17 MS. VERA: If we could look at sort of the bottom half
18 of this narrative.

19 BY MS. VERA:

20 Q. And so, Mr. Moeser, if you look sort of about two-thirds
21 down, it says, "The resident stated that she went to sleep and
22 then the first shift came in. YCP Leslie Smith came in, and
23 opened her door and saw the other resident inside and asked
24 her what she was doing there."

25 A. Okay. Yeah.

1 Q. So is that the other YCP who you said was involved here?

2 A. Yes.

3 Q. And did Ms. Smith -- is Ms. Smith one of the YCPs who did
4 not report this until later? Can you just explain the
5 chronology of reporting of this incident, Mr. Moeser?

6 A. Yeah, I believe -- I believe somewhere about as it got
7 about a week later that I think it was Ms. Smith that
8 mentioned it to -- maybe, I think, her supervisor might have
9 been -- Senior YCP Brown called in Mr. Burnside who then
10 called in Ms. Drake. So I think it was eventually Ms. Smith,
11 I think, was the one who said she finally had something to
12 report.

13 Q. Okay. And in this incident report, is there a report or
14 statement written by Senior YCP Brown?

15 A. I don't -- I know there -- I know Mr. Frazier wrote one.
16 I don't recall if Ms. Brown did or not.

17 Q. Okay. We can --

18 A. I don't think she did.

19 MS. VERA: We can page through and look at page 2. We
20 don't have to zoom in.

21 A. I think page 2 is -- yeah, I think page 2 is a
22 continuation from Ms. Drake, I believe.

23 Q. Yeah.

24 MS. VERA: And then page 3, please.

25 BY MS. VERA:

1 Q. This is the last page.

2 A. Yeah.

3 Q. This report --

4 A. Yeah.

5 Q. Who is this report by?

6 A. This is written by Mr. Frazier who is the director.

7 Q. Okay. So is there a report or a statement from a
8 supervisor, YCP senior or YCP supervisor?

9 A. Not that I know of.

10 Q. And is there a report by Ms. Burrell or Ms. Smith, the
11 YCPs who were involved?

12 A. Not that I'm aware of.

13 Q. And here we're looking at Mr. Frazier's report, and do
14 you see in the bottom paragraph he says that he reinformed
15 Ms. Smith she needed to write a report concerning what
16 transpired? "Again, I asked why she went a whole week without
17 reporting this incident. At that time she had no response."

18 A. Correct.

19 Q. So, Mr. Moeser, was this incident properly reported?

20 A. No.

21 Q. Do YCPs have reporting obligations with regard to sexual
22 abuse or sexual misconduct incidents?

23 A. Yes.

24 Q. And what are those -- what are their obligations?

25 A. Their obligation would be to write an incident report and

1 pass that up usually then to Mr. Burnside who would -- who
2 would read it, review it, presumably take any immediate action
3 if something was needed for safety reasons but then also pass
4 the report on to Ms. Foster who is the PREA coordinator.

5 Q. And was there a supervisor on duty when this incident
6 occurred?

7 A. I don't know. I mean, I'd have to go back and look at
8 that particular shift report. On some shifts as a result of
9 short staffing, a supervisor could have been assigned to a
10 unit, and there might have been a senior -- a senior youth
11 care professional kind of fills that role when there's not a
12 supervisor on-site so I don't know for sure.

13 Q. Okay. And is there a policy that would -- is there a
14 policy regarding two underage girls being permitted to sleep
15 together in the same room at Henley-Young?

16 A. The only policy I can think of is that youth are assigned
17 to their room and are supposed to be in there -- you know,
18 locked in their room at night. I don't know specifically --

19 Q. Okay.

20 A. (AUDIO GAP) -- say something -- that would, say, be in
21 their room.

22 Q. Mr. Moeser, is adequate staff and supervision important
23 to prevent and detect sexual abuse?

24 A. Yes.

25 Q. How is it important?

1 A. In a couple different ways. One would be to -- you know,
2 in terms of being able to be -- have time to observe and
3 interact with youth in a way that -- so they might overhear
4 something. They may say -- they might be able to head off
5 some incident if they sense something is going to happen, and
6 then certainly in terms of supervision and monitoring room
7 checks and monitoring all the youth both during the day and at
8 night and in all areas of the facilities so they're not left
9 alone anywhere and also make sure -- do adequate room checks
10 of the -- or when -- any time kids are in the room.

11 If there are not enough staff, probably what happens is
12 the staff are not always in a place to head off or prevent
13 something and interact with the youth beforehand and may --
14 there is some risk of not being able to do some room checks.

15 Q. And is staff training important to prevention and
16 detection of sexual abuse?

17 A. Yes.

18 Q. How so?

19 A. Well, both in terms of making sure staff are aware of
20 PREA, the importance of PREA regulations and procedures in
21 terms of reporting and also in terms of signs to watch for,
22 understanding, for example, teen sexuality issues particularly
23 with girls many of whom have a history of abuse and may act
24 out in ways that are inappropriate. So they need to
25 understand who they're dealing with, what are the risk factors

1 or signs of potential problems.

2 Q. And is adequate staffing and supervision important to
3 allow supervisors to do supervisory duties such as reviewing
4 reports, counseling staff?

5 MR. MORISANI: Objection. Leading.

6 THE COURT: Don't lead the witness, please.

7 BY MS. VERA:

8 Q. Is adequate staffing and supervision important to
9 permitting supervisory duties?

10 A. Could you say that one more time again?

11 Q. Is adequate staffing and supervision a factor in terms of
12 permitting supervisors to perform supervisory duties?

13 MR. MORISANI: Objection. Leading.

14 THE COURT: Try not to lead the witness.

15 BY MS. VERA:

16 Q. Does having adequate supervision by supervisors have
17 anything to do with staffing issues?

18 A. Yes. And in particular one of the things that's an issue
19 here is the inability of supervisors to basically supervise in
20 the sense that they're often assigned to supervise units
21 themselves and are not able to move around the facility or
22 sort of do the kind of quality assurance checks that we want
23 them to do. So it's important that -- and supervisors really
24 play that key role between sort of policy and practice in the
25 sense of making sure that staff understand when they're not

1 doing something right that it's corrected immediately.
2 They're really the -- they're really the teachers of staff and
3 they reinforce what you want staff to do. So when they're not
4 able to perform that job, staff may or may not be following
5 proper procedures.

6 THE WITNESS: Your Honor, may I just interject quickly?
7 The only camera I see is you, which is fine with me, but I
8 cannot see Ms. Vera.

9 THE COURT: Okay. We'll get that fixed.

10 THE WITNESS: Okay. There we go. Sorry, Your Honor.

11 BY MS. VERA:

12 Q. Mr. Moeser, do staff vacancies at Henley-Young increase
13 the risk of sexual abuse?

14 A. Yes.

15 Q. Can you please describe how?

16 A. Well, again, the -- it's important that staff are aware
17 of youth's emotions, what they're saying, how they're
18 interacting with each other. That requires them to be very
19 observant to be in places where they can listen and observe
20 properly, interact to the extent possible, sort of get to know
21 the youth involved and be able to, again, take the youth aside
22 and head off things that might occur.

23 Ultimately them being able to do the proper -- do the
24 proper observation, do the room checks that are required and
25 to refer -- if they are concerned about particular issues,

1 being able to hear them observe them, report them to the
2 supervisor or to mental health folks to deal with.

3 MS. VERA: Your Honor, the United States moves to admit
4 PX-30.

5 THE COURT: Any objection?

6 MR. MORISANI: No objection.

7 THE COURT: PX-30 is received into evidence.

8 (Plaintiff's Exhibit 30 entered.)

9 BY MS. VERA:

10 Q. Mr. Moeser, did you review or assess any other
11 allegations of sexual abuse at Henley-Young?

12 A. So this was the incident -- there was an incident I think
13 we talked about Friday, although that seems like a long time
14 ago, of a youth touching another youth in their room. There
15 was one more incident that I did not review detail of, and
16 that was the allegation of (AUDIO GAP) improperly touching a
17 student.

18 Q. And is that the October 2021 incident that's mentioned in
19 the monitoring report?

20 A. Yes.

21 Q. The fifteenth monitoring report?

22 A. Yes, I think it was early -- relatively early October,
23 around the time we were drafting that report.

24 Q. And what happened in that case?

25 A. It's my understanding through subsequent conversations

1 and e-mails that that -- the teacher -- the student was in the
2 classroom with the teacher after hours, after normal school
3 hours and touched the student sexually, and that was
4 subsequently reported and observed on the video and the
5 staff -- the teacher was immediately discharged or barred from
6 coming back to Henley-Young.

7 Q. And was the teacher criminally charged for that incident?

8 A. It's my understanding he was arrested, taken into
9 custody. I don't know the ultimate decision on charging.

10 Q. Okay. I wanted to just switch gears briefly and talk
11 about a couple of topics that we discussed on Friday in a
12 little bit more detail.

13 First of all, I just wanted to clarify something in the
14 record, Mr. Moeser, from Friday when we were talking about the
15 time that youth at Henley-Young or that the JCAs specifically
16 spend in school.

17 A. Yes.

18 Q. And I just wanted to clarify that because on Friday you
19 said -- you talked about a 330-minute requirement. Is that --

20 A. Yes.

21 Q. Is that a state law requirement?

22 A. I believe it's a state -- yes, I believe it's a state
23 regulation and that may or may not be the same in all states,
24 but at least in Mississippi that's the number. I don't know
25 if there's a number of days required in Mississippi.

1 Oftentimes states will say days and minutes. In this case
2 it's 330 minutes a week.

3 Q. So I just wanted to clarify whether it's 330 minutes a
4 week or per day. 330 minutes -- 330 divided by 60 is 5.5. So
5 it would be half and a half hours.

6 A. Correct.

7 Q. Is that a daily requirement for school?

8 A. I can't -- the only requirement I know is 330 minutes. A
9 school -- because I don't know if there's an option for a
10 school to schedule differently, for example, if they wanted to
11 do a four-day week, could they do it differently? I don't
12 know the answer to that.

13 Q. Okay. But it would -- is it your understanding that the
14 required numbers of hours or minutes would be equivalent to
15 five and a half hours per day?

16 A. Yes.

17 Q. Okay. Okay. Thank you. And then one more area that I
18 wanted to ask about in more detail is the settlement agreement
19 provisions regarding mental health and behavioral programming.
20 So on Friday, Mr. Moeser, you testified that defendants are in
21 partial compliance with these provisions, paragraph 78
22 covering mental health programming and paragraph 84 of the
23 settlement agreement covering behavioral programming; is that
24 right?

25 A. Yes.

1 MS. VERA: Can we pull up PX-1, please, at page 38?

2 And let's look at paragraph 84.

3 BY MS. VERA:

4 Q. Mr. Moeser, is this the settlement agreement paragraph
5 regarding behavioral treatment programming?

6 A. Yes.

7 Q. And this provision requires defendants to develop and
8 implement a behavioral treatment program appropriate for
9 youth; right?

10 A. Yes.

11 Q. So what does that mean?

12 A. Well, it would mean having -- in my opinion, it would
13 mean having a -- both a sort of mental health -- integrated
14 mental health components as well as sort of the behavior
15 management piece, sort of melding them together in some way
16 that reinforces and rewards, incentivizes the behavior that
17 you want to achieve and deals with when there are issues
18 dealing with some of the underlying issues that led to the
19 behavior and having that set up in a way that is consistent
20 for youth.

21 Q. Is there a program -- oh, sorry.

22 A. Well, that just sort of cross all aspects of the program.
23 People are working towards that end.

24 Q. And is such a program in place at Henley-Young?

25 A. Well, I've always included this as partial. They have a

1 point system that is fairly rudimentary. It's not well used.
2 There are programmatic components as well in terms of some of
3 the -- some of the groups are often too short and difficult to
4 run. So there are parts of it there. There are staff who
5 have been working to try and pull those pieces together and
6 Ms. Warfield, as the treatment coordinator, is hopefully going
7 to be leading efforts to sort of pull that all together.

8 Q. You said the behavioral groups are difficult to run.

9 A. Yes.

10 Q. Can you describe what that means?

11 A. The biggest problem in the past has been they have
12 initially tried to schedule them for 45 minutes, maybe a
13 little longer. They found that was -- they could not
14 successfully run groups for that long, so they cut that to
15 half an hour. So some of the groups around, let's say,
16 decision-making skills, anger management, different -- so they
17 do have some curriculum and programmatic materials they use,
18 but all of those really require a half-hour shot of that,
19 including time to get to the group and back is really not
20 sufficient. I really don't think you're going to accomplish
21 much based periodically, depending on -- staffing can run the
22 group in the multipurpose room, which is okay but not the best
23 facility, not the best spot. They periodically because of
24 short staffing have to try and run the group on the unit with
25 a lot of distractions and noise. So it's really a quality

1 issue and a sort of fidelity to the kinds of curriculum that
2 they have, unable to really fulfill.

3 Q. In terms of mental health treatment, how many mental
4 health providers are on staff at Henley-Young?

5 A. There are -- well, there are two spaces, two positions
6 for qualified mental health practitioners with various
7 certifications. Ms. Warfield, as a third, has some sort of
8 appropriate certifications. So she has -- because of the
9 vacancy of one of the clinicians has been trying to fill in
10 some of that gap. Ms. Drake is the other one who has been
11 trying to work extra hard.

12 They have three positions for youth support specialists,
13 who are designed to provide more of a day-to-day, short-term,
14 you know, how is today going kind of intervention support.
15 They also help run -- they also really help coordinate if
16 there are a number of groups. So on paper when they're all
17 staffed, their population is -- stays modest. They have a
18 pretty good number of mental health folks on the team.

19 Q. And so just to clarify, you said there are two qualified
20 mental health professional positions, but one of those is
21 currently vacant?

22 A. Yes.

23 Q. And of the case manager or YSS positions, are there --
24 are those fully staffed currently?

25 A. I don't -- I don't think they are. The -- there's

1 actually -- there's a fourth youth support specialist assigned
2 from the jail who does some work with youth and tracks and
3 transitions them as to go through RDC. I think of the three
4 YSS positions, I honestly don't recall right now off the top
5 of my head right now if they're all filled or not.

6 Q. Okay. Are the mental health providers supported in their
7 work?

8 A. I guess I'm not sure how to answer that question.

9 Q. Do they face challenges in performing the work of
10 providing mental health care?

11 A. Yeah. I think -- I think and all of them, when I talk to
12 them, mention the staffing shortage as an issue and being able
13 to run their groups in the way they would like to, for
14 example, making use of the portable classrooms the County has
15 purchased and installed would be a better environment for
16 running groups, but they're rarely able to go there because of
17 a staffing shortage. So that's a big issue. To varying
18 degrees, staff -- YCP staff are supportive when they are
19 running groups. Occasionally some -- and this would be the
20 fewer number -- are sort of engaged as well and may even
21 assist in a group, for example. By and large, they're not
22 engaged in the group often because there are youth to
23 supervise who are not in the group.

24 So I think ideally and one of the things I keep looking
25 for is how to engage the youth care professionals in -- along

1 with, for example, the youth support specialists in managing
2 those groups so that the youth care professional is both
3 understands what the kids are learning and can then reinforce
4 it. On the unit it also -- it makes a positive impact on the
5 relationship between them and the youth.

6 Q. Why is it important to have an overarching program for
7 mental health and behavioral treatment?

8 A. It's important so that everybody in the facility
9 understands what they're trying to accomplish, and in terms
10 of -- and what techniques and strategies they're using to
11 reinforce the behavior they want and reduce the behavior they
12 don't want. Youth are -- for lack of a better word, their
13 lives have been full of inconsistencies, trauma, and other
14 things that have made it difficult for them to learn, and
15 youth need constant and consistent reinforcement to learn new
16 skills or to change their behavior, shape their behavior.

17 So if it's intermittent, if one staff member approaches
18 it one way and another a different way, youth -- A, they never
19 learn really, they never change and, B, they tend to drive
20 wedges between staff they like or don't like and it becomes
21 really problematic. So the reason to have sort of an
22 overarching blue -- I would call it a blueprint for how we're
23 going to deal with behavior issues and mental health issues
24 means that everybody is on the same page moving forward.
25 Every time a youth acts a certain way, they're going to be

1 reinforced the same way no matter which staff member is there
2 on the premises and be as consistent as possible in shaping
3 their behavior in a positive way.

4 Q. And, Mr. Moeser, paragraph 84 provides, "This program
5 must be developed with the assistance of a qualified
6 consultant who has at least five years of experience
7 developing behavioral programs for institutionalized youth."
8 Did the defendants ever hire a qualified consultant with five
9 years' experience developing such programs?

10 A. Generally no. More recently the Southern Poverty Law
11 Center has received a grant to have some assistance --
12 practical assistance by Monique Khumalo. I have not -- I
13 don't know to what extent she would -- I know she has the
14 background and the experience and the knowledge. Whether --
15 to what extent she's going to focus on this particular
16 paragraph, I don't know. They have received periodic
17 technical assistance from prior SPLC monitor, Mr. Dixon, and
18 they do get a weekly call with Ms. Nelsen, who is the current
19 monitor, and she will periodically advise them on certain
20 aspects. In terms of what I would consider a development of a
21 program like this would be much more than what is currently
22 being provided, and we'll see if Ms. Khumalo was in -- works
23 on this at all.

24 MS. VERA: And if we could pull up PX-2, that's the
25 stipulated order at page 7, please, and let's look at

1 paragraph A, please.

2 BY MS. VERA:

3 Q. So the stipulated order includes these provisions,

4 "Within 30 days the County will post at a locally competitive
5 salary for a full-time clinical social worker or psychologist
6 to serve as a treatment director or coordinator." And then a
7 little bit below that, "If a clinical social worker is hired
8 for the position, the County will contract with a psychologist
9 to provide any assessment, therapeutic or consultation
10 services needed in addition to the services of the clinical
11 social worker."

12 Mr. Moeser, are these requirements related to the ones we
13 were just looking at from the settlement agreement?

14 A. Yes.

15 Q. And what -- what were these requirements in the
16 stipulated order? What was the goal -- what's the goal or
17 importance of those requirements?

18 A. Well, the goal was -- the goal was -- and this goes back
19 to the original agreement which required the hiring of a
20 psychologist, which they were full time, which they were not
21 able to do, so in the stipulated order, they wanted to sort of
22 open the door for sort of a different role as a treatment
23 director or coordinator, what was probably the terms I used at
24 the time, or we used. They help provide leadership for the
25 clinicians, the youth support specialist to interact with the

1 other leadership, youth care professionals to put together
2 sort of the blueprint and pieces of an integrated behavioral
3 management and behavioral health plan and having someone who
4 could lead that effort and that that -- not so much that that
5 person would be a therapist per se themselves but would both
6 have sufficient knowledge of mental health issues to make sure
7 that the initial assessments were done, that case plans were
8 done properly, things like that, but also lead the effort to
9 develop this program across the facility.

10 Q. Did defendants ever hire a treatment coordinator?

11 A. They -- well, they -- they did not post it within
12 30 days, but they eventually hired -- I think it was about
13 90 days it was posted, and this was -- so this is back in
14 2020. There was a period of time where there was nobody in
15 that position. I think in the summer or so of '21 Mr. Frazier
16 found a -- someone who was, I think, a part-time teacher at
17 one of the universities but also came in part time to do some
18 work and then eventually Ms. Warfield was hired right around
19 the start of September of '21. So much of the time between
20 this agreement and '21, there was nobody. I'm trying to
21 remember if there was somebody in 2020 at all.

22 Q. That's okay. What are --

23 A. Yeah.

24 Q. So Ms. Warfield -- you said Ms. Warfield has been in this
25 position of treatment coordinator since about September?

1 A. I believe so, yes.

2 Q. And what are her qualifications?

3 A. She's a - she's a master level social worker. I don't
4 think it's -- it's not clinical social work. It's -- oh, the
5 initials escape me, but it is a master's level experience.
6 She has some experience providing community-based treatment
7 for youth, adolescents and working with kind of various
8 treatment programs with youth.

9 Q. And have they ever contracted with a psychologist?

10 A. No. They have a contract with Hinds Behavioral Health
11 who provides an additional person who comes in periodically
12 for therapy. I don't know if its weekly, but that person does
13 not report to Ms. Warfield and does not -- doesn't necessarily
14 do what Ms. Warfield thinks needs to be done.

15 Q. And why is a consulting psychologist necessary?

16 A. Well, I -- my interest in this was that it's another
17 level of expertise around assessment dealing with kids with
18 more perhaps, let's say, acute mental health issues and that
19 as they deal with youth, both in terms of initial upfront
20 assessment, making sure their assessments are complete and put
21 them on the right track for a case plan and treatment. But
22 also as they experience problems with youth, there may be a
23 need for additional assessments that a psychologist could
24 provide to provide some guidance for intervention of
25 treatment. So my experience is that many kids will respond to

1 sort of the basic programming and assessments, and that's
2 fine. But ultimately, and especially with these kids, there's
3 a higher level of need often that may need additional
4 assessments beyond what they can do in-house.

5 Q. And what's the harm of not receiving that higher level of
6 treatment?

7 A. Well, the harm is not fully understanding what's going on
8 with the youth and either -- either essentially keep doing
9 what you're doing and it's not working or theoretically do
10 something that just makes things worse. But it's more of an
11 issue of not being able to find the right intervention for a
12 particular youth and for -- in this case the youth will
13 continue to act out, maybe harm themselves, maybe harm other
14 youths, maybe even staff, so it's important to, especially in
15 those more complicated cases, get an outside view -- a
16 consultation of trying some different things. It's another
17 person in the room who can maybe help come up with an
18 individualized plan that can be successful.

19 Q. Okay. Mr. Moeser, based on everything you've done to
20 assess Henley-Young conditions, the conditions for JCAs in
21 Hinds County, did you form an overall opinion about whether
22 Hinds County is in compliance with the consent decree?

23 A. Yes.

24 Q. What's that opinion?

25 A. I -- well, most -- I typically say "partial compliance."

1 They have pieces in place. Some things have moved forward
2 somewhat and then get stuck, but partial compliance is a fair
3 assessment in general.

4 Q. Do you believe additional recommendations and technical
5 assistance will lead to compliance with the consent decree?

6 A. I believe, for example, with the behavioral health
7 programming of engaging a consultant would be beneficial.
8 Someone who's had experience in developing a comprehensive
9 behavioral health plan in a facility would be helpful. I
10 think the basic recommendations that we've already made in the
11 elements of the agreement are sufficient. I don't know if
12 there need to be any more beyond that right now.

13 Q. For all the provisions that concern JCAs, what do you
14 believe is necessary to achieve compliance?

15 A. The primary issue is getting -- is recruiting, retaining,
16 training the youth care professional staff because they're the
17 most involved with youth and the most critical to really all
18 aspects of the programming. I think second would be the sort
19 of the -- sort of developing of a coordinated or a blueprint
20 for a behavior health plan. Those would be the two things I
21 would focus on.

22 Q. And based on your work on the monitoring team since 2016,
23 do you believe that the defendants will do those things on
24 their own?

25 A. You know, I'm an optimist, but I don't, given the

1 challenge and difficulties and sort of one step forward, two
2 steps back way we've done things, I'm not sure they can.

3 Q. Do you think defendants will be able to keep youth
4 reasonably safe and provide the necessary programming if the
5 consent decree were to be terminated?

6 A. No.

7 Q. Why not?

8 A. Well, I think the elements of the consent decree are all
9 very legitimate expectations and achievable. I think those
10 are the elements that are going to be, you know, provide the
11 most safety in the long run. I don't -- I guess I don't know
12 if -- if those were gone where the motivation or pressure
13 would be to do all the things that are in the agreement since
14 they haven't done -- completed many of the things that are in
15 the agreement.

16 Q. Do you think any of the provisions pertaining to JCAs in
17 the agreement are unnecessary or superfluous?

18 A. No. I think -- I think they're a reasonable number, not
19 over-the-top number of expectations and again, I think fit
20 together to what would be needed to have a properly running
21 safe facility.

22 Q. Mr. Moeser, do you have an opinion about whether the
23 provisions of the decree have any impact on public safety?

24 A. I do.

25 Q. And what is that opinion?

1 A. Well, a couple things. One is there are some youth that
2 come in and out of Henley-Young in either relatively short
3 periods or maybe a period of a few months. And certainly the
4 -- whatever they experience in the facility helps shape their
5 behavior. So to the extent that might be harmful or unsafe is
6 bad. Ultimately, really almost all of the youth, with the
7 rare exceptions, every youth at Henley-Young is going to get
8 back out into the community at some point. They may end up
9 with a prison sentence. They may end up at RDC and ultimately
10 a prison sentence or a youth correctional sentence, but
11 they're going to get out. And I believe it's really important
12 to -- long-term public safety to take the opportunity you have
13 with youth in a controlled setting like this to teach them
14 skills that they can use, prosocial skills they can use when
15 they get out, problem-solving skills, help them develop the
16 capacity to think before they act. Help them with things like
17 peer refusal skills, independent living skills, job skills,
18 all the kinds of things we want youth to be able to learn to
19 be successful members of our community.

20 This is, in fact, the place that, right or wrong, most
21 potentially has a tremendous capacity to take behavior of
22 youth if done well. Youth who have experienced trauma, who
23 have trauma backgrounds, if they are in a facility where
24 there's violence and victimization they -- it tends to
25 exacerbate that and they come out and are more likely to re

1 offend. So it's really important to the future of the
2 community that we take the opportunity that we have with them
3 to have them come out better than when they came in.

4 MS. VERA: Thank you, Mr. Moeser. Your Honor, I don't
5 have any further questions at this time.

6 THE COURT: Okay. Thank you.

7 MR. MORISANI: May I proceed, Your Honor?

8 THE COURT: You may.

9 **CROSS-EXAMINATION**

10 **BY MR. MORISANI:**

11 Q. Good morning, Mr. Moeser. How are you?

12 A. Good morning. Well. Thank you.

13 Q. All right. In your role as administrator of the division
14 of juvenile corrections you worked for the Wisconsin
15 Department of Corrections; is that right?

16 A. Correct.

17 Q. And in that role were you ever sued in your official
18 capacity?

19 A. I don't -- boy, I don't recall if I was or not. I know I
20 was in my -- there was one case in my County experience.

21 Q. You broke up a little bit. There was one case in what?

22 A. Well, there was one, I think one court case in my County
23 experience that was simply a habeas corpus situation, but I
24 don't recall a suit in the state time.

25 Q. And did you ever give a deposition when you were in the

1 position with the Department of Corrections?

2 A. Not that I recall, no.

3 Q. Ever testify in court while you were in that position?

4 A. Not -- no, I don't believe so.

5 Q. And has a court ever qualified you as an expert?

6 A. No.

7 Q. Have you ever written an expert report related to
8 litigation?

9 A. No.

10 Q. Have you ever testified in any way as an expert in
11 deposition or court or otherwise?

12 A. No.

13 Q. And when you operated juvenile detention facilities you
14 had to operate those facilities on a budget, did you not?

15 A. Yes.

16 Q. And when you served as the juvenile court administrator
17 in Dane County, you had to operate within a budget in that
18 position as well, didn't you?

19 A. Yes.

20 Q. And the budgets that you requested weren't always granted
21 just the way you requested them, were they?

22 A. That's correct.

23 Q. And at times did you also not experience budgetary
24 constraints trying to provide the services offered by the
25 juvenile court?

1 A. Yes.

2 Q. And as the juvenile court administrator you had issues
3 with staffing level and quality, didn't you?

4 A. Pretty limited. We had -- we had -- really staff very
5 rare vacancies and relatively few disciplinary issues.

6 Q. I'm going to show you a document on the screen.

7 A. Okay.

8 Q. Mr. Moeser, just bear with me as I get everything set up.
9 And Mr. Moeser, will you let me know if you can see this
10 document?

11 A. It's a little small, but --

12 Q. Let me see if I can focus it for you.

13 A. Sure. Expand my view here.

14 Q. Is that better at all? Just a little bit?

15 A. Just a little bit. I really can't read it.

16 Q. Well, can you see the title of the article?

17 A. Not very well. Sorry.

18 Q. That's all right. That's all right. How about now?

19 A. Okay.

20 Q. Is that "Juvenile --

21 A. "Juvenile group homes are" -- yes.

22 Q. -- you can go ahead and read it. Go ahead.

23 A. "Juvenile group homes are tough operations."

24 Q. And the article, for the record, was January 19, 2007?

25 A. Yes.

1 Q. I'm going to flip to a quote attributed to you. And I'm
2 going to read it and you let me know if I read it correctly.
3 "The staffing level and quality certainly has been a concern
4 says Moeser. And as kids have gotten tougher I think that's
5 even more apparent."

6 Did I read that correctly?

7 A. Yes.

8 Q. Would that be reflective of the type of staffing
9 challenges you had while you were juvenile court
10 administrator?

11 A. Periodically, yes.

12 Q. Okay. And despite those challenges though, you did the
13 best that you could with the resources that you had in that
14 role as juvenile court administrator, didn't you?

15 A. Yes.

16 Q. And the same is true when you operate a juvenile
17 detention facility; is that right?

18 A. Yes.

19 Q. And the truth is, and I think you've written about this
20 in the past, that even a well-run institution under the best
21 of circumstances will have challenges with staffing and
22 meeting the needs of youth; isn't that right?

23 A. Yes.

24 Q. And incidents, whether considered assaults, fights, uses
25 of force by staff, they happen at juvenile detention

1 facilities, don't they?

2 A. Yes.

3 Q. And these incidents can happen in facilities that are
4 sufficiently staffed up to your standards; isn't that true?

5 A. They can, yes.

6 Q. And isn't true that one of the reasons for this is that
7 juvenile detainees' behavior will continue to be a challenge,
8 that's one of the reasons they're there in the detention
9 facility; right?

10 A. That's correct.

11 Q. And you agree that also -- well, we'll come back to that.
12 Have you ever served as a federal monitor for the DOJ before
13 this matter, Mr. Moeser?

14 A. No, I have not.

15 Q. How is it that you became to be a monitor -- a member of
16 the monitoring team in this case?

17 A. I only know that I was contacted by the Department --
18 someone in the Department of Justice and interviewed, you
19 know, provided information and was interviewed by them.

20 Q. And did you know Ms. Lisa Simpson before serving in this
21 case?

22 A. I did not.

23 Q. And what is your involvement in the compliance
24 determinations contained in Ms. Simpson's reports?

25 A. So I'm the principal author of the sections on youthful

1 prisoners, youthful offenders. I complete my draft, forward
2 that to Ms. Simpson and she reviews it. We may have some
3 questions and then ultimately gets included in the full
4 report.

5 Q. So you're actually writing those sections dealing with
6 the youthful prisoners?

7 A. Yes.

8 Q. And did you meet with the DOJ attorneys at any point in
9 time prior to giving your testimony in this matter?

10 A. We had several Zoom meetings, yes.

11 Q. And did you discuss your testimony with the DOJ attorneys
12 prior to giving your testimony Friday and today?

13 A. Yes.

14 Q. And what about with Ms. Simpson? Did you meet with her
15 at any point in time prior to testifying in this matter Friday
16 and today?

17 A. No, I did not.

18 Q. And is it -- isn't it true that the County has paid you a
19 total of \$95,587.88 throughout the course of your serving as a
20 member of the monitoring team in this matter?

21 A. I don't think that's exact -- that's about the right
22 number, yes.

23 Q. And the County is also paying Ms. Nelsen related to
24 Henley-Young as well, isn't it?

25 A. I believe so, yes.

1 Q. And is it fair to say you're not here to offer testimony
2 about the separate consent decree governing the non JCA youth
3 at Henley-Young, are you?

4 A. Correct.

5 Q. Now, the modular units that have been added, I think you
6 testified about this on direct, the modular units that have
7 been added -- well, I'll say put in place to provide
8 additional and appropriate education program and treatment
9 space, that project is finished; correct?

10 A. Correct.

11 Q. And these units are being used for this space; are they
12 not?

13 A. On occasion, yes.

14 Q. And as it stands today, the facility itself, Henley-Young
15 is a clean facility; is that correct?

16 A. I haven't physically been there for a while, so I can't
17 speak to that.

18 Q. Well, you'd agree, at least, that it's a well-organized
19 facility; correct?

20 A. I'm not sure what "well-organized" means through what
21 you're -- what aspects of it --

22 Q. Well, there's not trash laying all over the floors and
23 the facility, is there?

24 A. There wasn't when I was last there, no.

25 Q. And there's not today; correct?

1 A. I don't know.

2 Q. And the facility is well-taken care of, isn't it?

3 A. So my experience was a couple of things. One is I know
4 there are some roof leaks there that are problematic. And I
5 know the water system fails periodically. They have repaired
6 the -- sort of the main control board, so that was done fairly
7 promptly. But, again, I haven't been there for a couple of
8 years now.

9 Q. I want to ask you about a couple things you just
10 mentioned. The control boards, you said that was done fairly
11 promptly. That was a good thing to do, wasn't it?

12 A. Absolutely, yeah.

13 Q. And as you sit here today, I take it you're not aware of
14 what work is being done on the roof at Henley-Young, are you?

15 A. I'm not aware. I know there had been discussion about
16 getting bids or submitting bids, but I don't know what stage
17 that's at.

18 Q. Okay. And as far as you're aware -- well, I guess, as
19 you sit here today, you're not aware of any work that is being
20 done to address the water situation at Henley-Young, are you?

21 A. Correct. I'm not aware of anything.

22 Q. And in your -- in your latest site visit, the virtual
23 visit, I think it was the last -- it was January 31st that
24 week, I think?

25 A. Correct.

1 Q. Am I correct that you did not interview any of the YCP
2 staff to see if they feel safe at Henley-Young, did you?

3 A. I did not interview any YCP staff.

4 Q. And you have not -- I think you mentioned this before,
5 but I want to clarify it. You have not been to the facility
6 recently to see -- well, we'll strike that. We'll move on.

7 Now, during that site visit you interviewed
8 Carol Warfield, I think you said; is that right?

9 A. Yes.

10 Q. And you interviewed Eric Dorsey?

11 A. Yes.

12 Q. And Marshand Crisler?

13 A. Yes.

14 Q. Brenda Drake as well?

15 A. Yes.

16 Q. Did you interview anyone else?

17 A. I interviewed Ms. Foster. I interviewed --

18 Q. Do you have Ms. Foster's first name?

19 A. I believe it's Janine. I interviewed two of the youth
20 support specialists. I interviewed Kenneth Marshall, whose a
21 supervisor. And I interviewed Lilly Young, who's a -- was a
22 supervisor and has now moved back to the training unit. I'm
23 forgetting someone else I think.

24 Q. Well, having interviewed each of these individuals, would
25 you agree that each of them are committed to the youth at

1 Henley-Young?

2 A. Yes.

3 Q. Now, I want to talk a little bit about the resignation
4 letter at PX-12. Its Fernandez Frazier's resignation letter.
5 Bear with me. I'm going to -- now, you're not here to testify
6 as to why -- well, let me put the letter up before I ask you
7 that question. All right. Mr. Moeser, we're going to try to
8 make sure you can see it. Can you see the writing on the
9 letter?

10 A. Yes, I can.

11 Q. PX-12. All right. I'm going to flip to the second page.
12 And there was some discussion in the letter about the fiscal
13 budget here. I'm going to --

14 A. Yes.

15 Q. See the sentence, it's the current fiscal budget?

16 A. Yes.

17 Q. Now, you're not here to testify today as to why the
18 County funded the fiscal budget at a little less than
19 3.3 million instead of the 4.1 million requested, are you?

20 A. No.

21 Q. And you're not here to testify about why the County's
22 requisition process is set up the way it is, are you?

23 A. No.

24 Q. And you're not here to testify about why Mississippi law
25 has certain restrictions on the expenditure of public money,

1 are you?

2 A. No, I'm not.

3 Q. And am I correct in thinking that you haven't talked with
4 Mr. Frazier about the letter in Exhibit PX-12, have you?

5 A. I did not talk about the letter.

6 Q. So you're not here to testify about the breakdown in the
7 relationship between Mr. Frazier and the youth court judge,
8 Judge Hicks, are you?

9 A. I am not.

10 Q. And so you don't know what -- well, strike that.

11 You don't know the extent to which his resignation was
12 based on the conflicts that he was having with the youth court
13 judge, do you?

14 A. I do not know.

15 Q. Now, Mr. Moeser, as you sit here today, do you know what
16 the current unemployment rate in Mississippi is?

17 A. I don't.

18 Q. And as a former juvenile court administrator, you're
19 familiar with the constraints that can be created by the
20 reality that your County is operating on a finite budget; is
21 that correct?

22 A. Yes.

23 Q. And low staffing levels, would you agree, those are not
24 unique to Hinds County, are they?

25 A. They are not.

1 Q. And I think as you've told PBS Wisconsin back on
2 December 28, 2015, it's always a challenge in an institution
3 of making sure they have enough staff and the right staffing
4 configuration. Do you recall that?

5 A. I recall something like that, yes.

6 Q. And you'd agree that staffing is a struggle nationally
7 right now, isn't it?

8 A. It is.

9 Q. And you'd agree too that when you have a 24/7 -- 24-hour,
10 seven-day a week operation like a detention facility that
11 scheduling staff can be challenging, too?

12 A. Yes.

13 Q. And as you sit here today, Mr. Moeser, you can't quantify
14 the extent to which low staffing increases the risk of sexual
15 abuse, can you?

16 A. I can't quantify it.

17 Q. You just think that it increases the risk; is that fair
18 to say?

19 A. Yeah. I think it increases the conditions that could
20 lead to it, but it's a risk that I can't quantify.

21 Q. And you'd agree though that the County is not ignoring
22 the staffing problem at Henley-Young, is it?

23 A. I guess that -- to the extent that we've been
24 recommending addressing salaries and pay progression for
25 almost five years, it's only recently happened, I guess I

1 don't -- they ignored it for a while.

2 Q. But you'd agree that currently they're not ignoring it;
3 correct?

4 A. I don't know what discussions are going on above and
5 beyond what's already been done perhaps.

6 Q. Well, let's start with the raise that was put in place
7 when Mr. Frazier was director. You recall that; correct?

8 A. Yes.

9 Q. That's a step that addresses low staffing; does it not?

10 A. Yes.

11 Q. And it certainly would address staff retention as well,
12 wouldn't it?

13 A. It would help, yes.

14 Q. It's a reasonable thing to do; correct?

15 A. Correct.

16 Q. And you'd agree that increasing starting salaries for the
17 YCP staff also indicates a desire to address the staffing
18 issue; does it not?

19 A. I believe so.

20 Q. And it would also help with staff retention; would it
21 not?

22 A. It should, yes.

23 Q. And the treatment team, you talked a little bit about the
24 treatment team, and you'd agree that staff at Henley-Young
25 hold treatment team meetings every three weeks; correct?

1 A. Well, they hold -- yes, they actually hold treatment team
2 meetings every week for a third of the group. So they meet
3 every week. Each youth gets a team meeting every three weeks.

4 Q. And at these meetings mental health staff maintain and
5 review individualized treatment goals, don't they?

6 A. Yes.

7 Q. And that's for each of the offenders; correct?

8 A. Yes.

9 Q. And Ms. Warfield, she serves as the full-time treatment
10 team coordinator; is that right?

11 A. Yes.

12 Q. And who is Debra Bell?

13 A. I believe Debra Bell is the psychiatric nurse
14 practitioner that provides medication assistance and some
15 other issues related to psychiatric needs.

16 Q. You'd agree that Ms. Bell also attends the treatment team
17 meetings at Henley-Young; is that right?

18 A. I know there have been discussions to get her to attend.
19 I honestly don't know if she's able to attend them all or not.
20 I believe that she has been attending recently.

21 Q. And you'd agree, would you not, that the County's effort
22 to put in place this treatment team at the facility indicates
23 a desire to provide mental health support to the juveniles at
24 Henley-Young; is that right?

25 A. Yes.

1 Q. Now, you're familiar with Eric Dorsey. I think we talked
2 about him a moment ago; right?

3 A. Yes.

4 Q. He's quality assurance officer at Henley-Young?

5 A. Yes.

6 Q. He's doing good work, isn't he?

7 A. I believe so, yes.

8 Q. Now, as he -- as he reviews incident reports, if
9 Mr. Dorsey does not understand an incident report, he'll
10 review the security camera footage of the incident to gain a
11 better understanding of it; isn't that right?

12 A. Well, I think -- I think Mr. Burnside is the more
13 frequent reviewer of incident reports and the camera. I think
14 it's not uncommon for Mr. Dorsey to join him, so they may
15 review it together.

16 Q. So there's at least two folks at the facility reviewing
17 incident report camera footage at times; correct?

18 A. Yes.

19 Q. And you'd agree from your January 31, 2022 interview that
20 Mr. Dorsey understands the importance of good incident report
21 writing at Henley-Young, doesn't he?

22 A. He does.

23 Q. And you'd agree that good report writing is something
24 that he's working with staff to address on an ongoing basis,
25 isn't he?

1 A. I think both he and Mr. Crisler are trying to focus on
2 better report writing.

3 Q. And you agree that staff cannot spend all their time
4 writing incident reports, can they?

5 A. No.

6 Q. Isn't it true that a good incident report -- well, isn't
7 it true that good incident report writing in a detention
8 setting requires striking a balance, on the one hand between
9 spending all your time writing the reports, and on the other
10 hand capturing those fundamental details?

11 A. Well, I certainly wouldn't want them spending all their
12 time writing reports. But I believe, again, with appropriate
13 staffing they would have sufficient time to write a quality
14 report.

15 Q. And you don't know one way or the other, do you, whether
16 Mr. Dorsey or Mr. Burnside reviewed the incident report
17 identified at PX-73 before it was given to you, do you?

18 A. I'm not sure which one that is. Is that the most recent
19 one we talked about?

20 Q. I can show it to you.

21 A. Okay.

22 Q. All right. Mr. Moeser, I'm going to use our friend the
23 Elmo here. It's PX-73.

24 A. Okay.

25 Q. I don't know if you can see the top of it.

1 A. Yes, okay.

2 Q. It's the incident January 10, 2022?

3 A. Understood, yes.

4 Q. So I'll just -- I'll repeat my question. You don't know
5 one way or the other whether Mr. Dorsey or Mr. Burnside
6 reviewed this report, do you, before it was provided to you, I
7 should say?

8 A. Oh, well, I guess I can't speak to the timing. I know
9 it's been reviewed by Mr. Burnside at least, but I -- whether
10 he did it before I got it or not, I'm not sure, because I
11 don't know exactly when I got it.

12 Q. Okay. And I want to talk a little bit about some of
13 these incident reports and go through a couple of these that
14 were discussed with you on direct. The first is PX-45. It's
15 the incident dated November 23rd of 2021 on Walter Payton pod.
16 The Exhibit 45, I'm going to slide it down and back it up.
17 Let me know if you have trouble seeing it.

18 A. That's good.

19 Q. Okay. Now, you're not -- you testified a little bit
20 about this report, and I just have a couple questions about --
21 based on your testimony. You're not saying that SYP Marshall
22 and SYP -- I'm sorry. SYCP Marshall and SYCP Collins should
23 not have assisted YCP McGee, are you?

24 A. No. They definitely should have assisted, yes.

25 Q. So you'd agree it's a good thing they came -- the staff

1 responded to the incident like this where you had multiple
2 juvenile detainees involved; right?

3 A. Yes.

4 Q. All right. We're going to switch gears to PX-29. It's
5 an incident dated October 9th of 2021, and it was on JFK pod.
6 Here's the exhibit number. I'm going to slide it down so you
7 can see the date and the details. Now, you testified again
8 about this incident. Do you recall that?

9 A. Yes.

10 Q. Now, you didn't review -- well, strike that. You haven't
11 talked to the resident who claims that she choked the other
12 resident out, did you?

13 A. I have not.

14 Q. And I take it you didn't talk to the resident who was
15 allegedly choked out, did you?

16 A. I did not.

17 Q. And you didn't review any camera footage to determine if,
18 in fact, what the resident claims actually took place, did
19 you?

20 A. I did not.

21 Q. And I guess then you didn't do anything to verify what
22 the resident claimed regarding there being no staff available
23 at the time, did you?

24 A. Say it one more time.

25 Q. I take it then you didn't do anything to verify what the

1 resident claims in this incident report, that there were no
2 staff available at the time, and I'll flip the page to the
3 statement.

4 A. I did not verify independently, no.

5 Q. Okay. Did you do anything to verify it?

6 A. No.

7 Q. We're going to talk now about Exhibit PX-47. There's the
8 exhibit, and I'll drop it down so you can see the detail.

9 It's an incident for the record that took place on October 8,
10 2021, on Ossie Davis pod, and do you recall testifying about
11 this on your direct examination, Mr. Moeser?

12 A. I do.

13 Q. You never interviewed YCP McGee about this incident, did
14 you?

15 A. I did not.

16 Q. And you didn't do anything to verify whether there was
17 anything to the resident's the claim in this report that YCP
18 McGee never did anything to stop the incident, did you?

19 A. I talked to Mr. Burnside about follow-up about this
20 incident.

21 Q. Well --

22 A. He had reviewed -- he had reviewed the incident video
23 footage.

24 Q. When you talked to Mr. Burnside, did you verify whether
25 YCP McGee even was aware the incident was taking place while

1 it was taking place?

2 A. All I recall was Mr. Burnside saying, Officer McGee just
3 sat there.

4 Q. Okay. So I take it you didn't do anything to verify
5 whether McGee knew the incident was taking place as it was
6 going down, did you?

7 A. Correct.

8 Q. Talk about Exhibit PX-46. It's an incident from
9 October 26, 2021, on Ossie Davis pod. I'm going to drop it
10 down a little bit more for you.

11 Now, as you sit here today, you don't know how many
12 residents were on the pod when this incident described in
13 PX-46 occurred, do you?

14 A. I don't know.

15 Q. And you'd agree this report indicates that staff were on
16 the pod monitoring the residents when the incident occurred;
17 right?

18 A. Yes.

19 Q. The report also indicates that the staff responded to the
20 incident and moved in to stop it; right?

21 A. Yes.

22 Q. And you want your staff to be on the pod monitoring the
23 juvenile detainees, wouldn't you?

24 A. Correct.

25 Q. And you'd want them to respond to an incident as it

1 occurred; correct?

2 A. Yes.

3 Q. You'd want them to stop it; right?

4 A. Yes.

5 Q. And when the staff member on the pod called for backup,
6 the backup came according to this report; is that correct?

7 A. Correct.

8 Q. And you'd want your staff to respond when there's a call
9 for backup, wouldn't you?

10 A. Yes.

11 Q. And as the next page indicates, I'll flip it for you - as
12 the next page of PX-46 indicates, mental health staff saw the
13 detainees within less than an hour of the incident going down;
14 is that right?

15 A. That's correct.

16 Q. And you'd want your mental health staff to do that in
17 these type of incidents, wouldn't you?

18 A. Yes.

19 Q. Now, you'd agree then, Mr. Moeser, that the staff
20 response to this incident was appropriate, was it not?

21 A. Yes, I would. I think they -- I think the staff member
22 on the unit obviously was alert enough to see this occur and
23 intervened, assistance came, and Ms. Drake intervened and
24 followed up with one of the youth on her caseload to kind of
25 find out what happened.

1 Q. And the qualified mental health practitioner was in a
2 conference room attending PREA training; isn't that true?

3 A. Yes.

4 Q. And you'd want your staff to attend PREA training, too,
5 wouldn't you?

6 A. Yes.

7 Q. Now, I want to talk a little bit about education provided
8 at the facility. There was some testimony in your direct
9 examination about that. You'd agree that -- well, before we
10 move on to that one question about it, there was an incident
11 we didn't -- the report was not -- I don't believe the report
12 was used during your direct examination, but you talked about
13 an incident involving a teacher and alleged sexual conduct
14 with a detainee. Do you recall that?

15 A. Correct.

16 Q. I think it was in October of 21; is that right?

17 A. Yes.

18 Q. You'd agree that having that teacher arrested related to
19 that incident is a reasonable response to the incident taking
20 place, is it not?

21 A. Yes.

22 Q. Now, back to education, the -- would you agree that
23 offering juvenile detainees education through the
24 alternate-day school schedule that you've described is better
25 than simply having them sit on the pod and work on written

1 homework five days a week, is it not?

2 A. Yes.

3 Q. And the alternate-day schedule is certainly better than
4 no education at all; correct?

5 A. Sure.

6 Q. And you'd agree that providing juvenile detainees
7 education through this alternate-day schedule reveals an
8 intent by the County to provide these juvenile detainees with
9 an education, does it not?

10 A. With some education, yes.

11 Q. Now, with respect to the behavioral programming that you
12 talked about towards the end of your examination earlier this
13 morning, now, you'd agree that it's not about a lack of effort
14 by the County to provide behavioral programming. It's more
15 about the quality of the behavioral programming that's being
16 provided. Is that fair to say?

17 A. It's -- I would say it's the quality and the
18 implementation aspects of it, yes.

19 Q. It's certainly not that they're not providing it;
20 correct?

21 A. I would say that's correct.

22 Q. And the -- you've -- I guess how many detainees are
23 presently -- well, let me ask you this way. How many
24 detainees at Henley-Young today are repeat detainees?

25 A. Well, I don't know the exact number. I know that staff

1 have frequently said many of those youth -- many of the youth
2 that are there as JCAs have been there at Henley-Young as a --
3 through the youth court process. I don't know a percentage or
4 a number.

5 Q. And you've been a -- can you repeat that? I'm sorry. I
6 was talking over you, and I apologize.

7 A. I'm sorry. I almost finished. I don't have a percentage
8 or an exact number.

9 Q. And you've been a monitor for how long?

10 A. Well, I was on the baseline visit in the end of 2016 and
11 ever since then.

12 Q. All right. So 2016 to 2022, okay.

13 The contract with Hinds Behavioral Health services, that
14 contract provides for a psychologist to be on-site; isn't that
15 right?

16 A. I don't believe it does, but I haven't seen the contract.
17 There's not a psychologist that comes, I don't believe.

18 Q. Well, let me ask you this. You testified that -- another
19 thing you testified to this morning was that all of the -- you
20 testified that all the provisions of the consent decree remain
21 necessary. Do you recall that?

22 A. Yes.

23 Q. And I should clarify my question. It's more of all the
24 provisions related to the youthful offenders remain necessary;
25 is that correct?

1 A. Correct.

2 Q. Now, you'd agree, though, that with respect to those
3 provisions that you found in substantial -- I'm sorry -- in
4 sustained compliance, those are no longer necessary, are they?

5 A. The -- well, I think the only one that I've -- that's
6 sustained is the separation from adults, I believe, but, yes,
7 I would I guess -- to me it's still necessary because they
8 could choose to do something else, I suppose, but they've
9 complied. I have no reason to think they won't continue to.

10 Q. So if you found them in sustained compliance with respect
11 to a provision related to youthful offenders those provisions
12 are no longer necessary. You'd agree with that; correct?

13 A. No. I -- no.

14 Q. Did you not just testify that there's no reason to think
15 they would not continue to comply?

16 A. I would assume they would, but I really don't know. I
17 don't -- and if they -- I don't see any reason not to have it
18 continue.

19 Q. Now, you talked a little bit about suicide. I think it
20 was on Friday, suicide attempts?

21 A. Yes.

22 Q. And you'd agree with me that suicides can happen at
23 juvenile detention facilities, can't they?

24 A. They can.

25 Q. And if a suicide can happen, then it stands to reason

1 that a suicide attempt can happen; correct?

2 A. Yes.

3 Q. And the -- in the past year, the average daily population
4 of JCAs at Henley-Young, it's hovered around 30 juveniles,
5 give or take a few; is that correct?

6 A. Yes.

7 Q. Now, you're a member of the National Partnership for
8 Juvenile Services; is that right?

9 A. Correct.

10 Q. I'm going to show you a document and ask you a question
11 about it.

12 MS. VERA: Sorry, Counsel, could I see the --

13 MR. MORISANI: Sure.

14 MS. VERA: Thank you.

15 BY MR. MORISANI:

16 Q. All right. Mr. Moeser, can you see this document?

17 A. Yes.

18 Q. The "Position Statement Adopted by NPJS Board of
19 Directors October 20, 2014." Did I read that correctly?

20 A. Yes.

21 Q. Can we agree that NPJS is the National Partnership for
22 Juvenile Services?

23 A. Correct.

24 Q. That's the same group you're a member of?

25 A. Correct.

1 Q. I'm going to read for you the highlighted portion of this
2 position statement that was adopted on October 20, 2014, "A
3 study of youth in detention found one in ten had thought about
4 killing themselves in the past six months, and a little over
5 one in ten had made an actual suicide attempt at some point in
6 their lives with many trying to kill themselves more than
7 once."

8 Did I read that correctly?

9 A. Yes.

10 Q. So do you agree with those statistics, Mr. Moeser?

11 A. I don't recall that specific research behind it, but I
12 would agree that that's realistic and that group does a good
13 job.

14 Q. Now, you talked a little bit, too, about the metal tables
15 at Henley-Young.

16 A. Yes.

17 Q. And you'd agree, though, that the metal tables that are
18 in place there today, they can be -- they could used to sit
19 down on; correct?

20 A. Yes.

21 Q. And they can be used to eat; correct?

22 A. Correct.

23 Q. And they can be used to sit and engage in conversation,
24 play games, do other type activities; right?

25 A. Yes.

1 Q. And the -- I want to talk a little bit about the
2 detainees that are in a facility like this, like Henley-Young,
3 the JCAs, juveniles charged as adults. You'd agree that these
4 individuals are smart enough to know when a staff member
5 working the facility is inexperienced; right?

6 A. Yes.

7 Q. And they're not always honest and truthful, are they?

8 A. No, that's correct.

9 Q. They can be difficult; right?

10 A. Yes.

11 Q. And they can take advantage of inconsistencies in staff
12 approach; can't they?

13 A. Correct.

14 Q. And I think you talked this morning about these juvenile
15 detainees driving wedges between staff. So I take it you'd
16 agree that they can be manipulative, can't they?

17 A. Yes, they are.

18 Q. And they can even be dangerous; right?

19 A. Can be, yes.

20 Q. All right. Now, Mr. Moeser, the -- I want to talk a
21 little bit about - you're familiar with Berrien County,
22 Michigan; correct?

23 A. Yes.

24 Q. I think on February 10th of this year you gave a report
25 to their board, the Board of Supervisors, I think, is what

1 they call it up there; is that correct?

2 A. Correct.

3 Q. And I think, like your work here, you told the Board that
4 your role was an independent evaluator of the facility's
5 operations; correct?

6 A. Correct.

7 Q. And I think you actually went on-site in November of 2021
8 to that facility; correct?

9 A. That's correct.

10 Q. And would you agree that staffing -- that you told the
11 Board that staffing was the most critical issue that their
12 facility faced; correct?

13 A. Yes.

14 Q. And would you agree that you told the Board that COVID
15 had been a stressor for everyone. Do you recall saying that?

16 A. Correct.

17 Q. And that's no different than in Hinds County; correct?

18 A. That's true.

19 Q. And I think you also testified that -- it wasn't
20 testimony. People -- you said that people that take care of
21 their facility says something about how they view the facility
22 as well; is that right?

23 A. Yes.

24 Q. And I think your PowerPoint -- I'll put it up on the
25 screen here. Is this -- I think that's you there in the top

1 right corner, Mr. Moeser; is that right?

2 A. It looks like it, yes.

3 MS. VERA: Counsel, sorry. Could I take a look at this
4 one, too? Thank you.

5 BY MR. MORISANI:

6 Q. Does that -- does this document here reflect the
7 PowerPoint presentation you gave on February 10, 2022?

8 A. It looks like it, yes.

9 Q. Okay. Now, I'm going to put up the slide for recruitment
10 and retention. Do you see that?

11 A. Yes.

12 Q. Now, I think your PowerPoint tells the board here that
13 recruitment and retention are challenges not unique to Berrien
14 County Juvenile Center; is that correct?

15 A. That's correct.

16 Q. And the same for Hinds County; correct?

17 A. Correct.

18 Q. And some of the reasons that your PowerPoint gave for the
19 recruitment and retention issues were changing economics --
20 I'm looking here.

21 A. Sure.

22 Q. Changing economics, COVID and competition from other
23 industries; is that correct?

24 A. Correct.

25 Q. And your PowerPoint also told the Board, I think, that

1 the salary they were paying officers was low compared to other
2 facilities particularly given the expected role; is that
3 right?

4 A. Correct.

5 Q. And like Berrien County, Hinds County expects its staff
6 to perform a lot of duties in that role, don't they?

7 A. Correct.

8 Q. And your PowerPoint included a list of ideas under the
9 heading "Searching for the Magic Incentive." Do you see that?

10 A. Yes.

11 Q. Now, you'd agree that a receiver is not going to have
12 that magic incentive any more than the folks at Berrien
13 County, Hinds County or any other public entity that's dealing
14 with the national issue of staffing, is it?

15 A. I don't know what authority a receiver would have, so I
16 don't know.

17 Q. Now, Mr. Moeser, one couple --

18 MR. MORISANI: Well, Your Honor, if I may just briefly
19 confer. I may be finished.

20 BY MR. MORISANI:

21 Q. And, Mr. Moeser, I just want to make sure it's clear
22 before I conclude. The number of JCAs at the facility,
23 it's -- I think you testified earlier, I just want to make
24 sure that I recall it correctly, the number is around 30.
25 It's between 27 to 30, the average daily population of JCAs at

1 Henley-Young; is that correct?

2 A. I would say of JCAs that have been -- it's increased to,
3 I would say, between 25 and 29 more recently for JCAs and five
4 to seven youth court youth.

5 Q. Okay. Now, you'd agree with me, Mr. Moeser, that you're
6 an advocate for juvenile justice reform. Would you agree with
7 that?

8 A. Yes.

9 Q. And I think you've even advocated from removing youth
10 from any sort of incarceration or confinement, haven't you?

11 A. No, not that I recall.

12 Q. I'm going to show you, Mr. Moeser, an article that was
13 written -- it's April 10th of 2015. It was written by
14 yourself entitled, "First Do No Harm, Reducing Youth in
15 Institutionalization." I'm just going to show it to the DOJ,
16 and then I'll put it up on the screen for you.

17 All right. Mr. Moeser, I'm going to give it a moment
18 to -- do you see the title, Mr. Moeser?

19 A. Yes.

20 Q. All right. I'm going to flip to the second page and I'm
21 going to read a highlighted excerpt and I want you to tell me
22 if I've read this correctly. It says, "But reducing
23 institutionalization is about something more than numbers. It
24 is about understanding that incarceration, taking away
25 someone's freedom, is not only morally wrong but delays normal

1 patterns of aging out of delinquent behavior because it
2 interrupts a child's natural engagement with families, school
3 and work. Advocates are making progress in sharing this
4 broader understanding of what it means to reduce
5 institutionalization, but our work is far from done."

6 Did I read that correctly?

7 A. Yes.

8 Q. And that's an article that you wrote; correct?

9 A. Yes, looks like it is.

10 MR. MORISANI: All right. Your Honor, I have no
11 further questions.

12 THE COURT: I know you questioned him about that
13 document. You need to make that part of the record as an
14 exhibit, not necessarily for identification purposes.

15 MR. MORISANI: For identification?

16 THE COURT: Uh-huh.

17 MR. MORISANI: Yes, sir. May I approach, Your Honor?

18 THE COURT: You may. That will be D-156 for ID
19 purposes.

20 (Defendants' Exhibit 156 marked for identification.)

21 THE COURT: Any redirect of this witness?

22 MS. VERA: Yes, Your Honor. If it would be acceptable
23 to the Court, I could use a few moments to prepare, but I can
24 proceed now if that would be preferable.

25 THE COURT: We'll take a 15-minute break right now.

1 MS. VERA: Thank you, Your Honor.

2 THE COURT: Court will be in recess.

3 (A brief recess was taken.)

4 THE COURT: You may be seated.

5 Is the Government ready for redirect?

6 MS. VERA: Yes, Your Honor.

7 THE COURT: All right.

8 **REDIRECT EXAMINATION**

9 **BY MS. VERA:**

10 Q. Mr. Moeser, in your past experience, have you run
11 juvenile justice programs?

12 A. Yes.

13 Q. Have you testified to state legislatures or served on
14 committees and task forces relative to this expertise?

15 A. Yes.

16 Q. And have you been hired to consult on a variety of
17 projects?

18 A. Yes.

19 Q. I just wanted to circle back on your testimony about who
20 you interviewed in your monitoring activities. Do you also
21 interview Mr. Dorsey?

22 A. Yes.

23 Q. And did you interview Mr. Burnside?

24 A. Yes.

25 Q. And did you interview YCP supervisors?

1 A. Two, Marshall and Lilly Young, who had been a supervisor.

2 Q. You testified about staffing issues on cross-examination.

3 You testified that staffing is not the only solution to the
4 issues at Henley-Young; correct?

5 A. Correct.

6 Q. Does it make it any easier to run a juvenile justice
7 facility if you don't have enough staff?

8 A. If you don't have enough staff, it's much harder to run.

9 Q. And if there's high staff turnover?

10 A. That makes it difficult as well.

11 Q. And how many vacancies are there currently among the YCP
12 staff positions?

13 A. I think the last chart I saw in December there were 17.

14 Q. And that's out of how many?

15 A. Forty-two.

16 Q. And if Henley-Young were staffed as they have determined
17 it should be staffed, do you think they could prevent more
18 harmful incidents from happening?

19 A. Yes.

20 Q. And could they respond better as well?

21 A. Yes.

22 Q. Does the fact that staffing is a challenge in other
23 jurisdictions justify the staffing situation that you've found
24 in Hinds County?

25 A. No.

1 Q. How does a functional juvenile justice facility succeed
2 despite staffing challenges?

3 A. Well, staffing challenges create issues even in good
4 facilities, but what is in place that can help with that is
5 consistent leadership and good supervision, so that practices
6 and policies that are in place are adhered to and that's
7 really the best -- the only way to really overcome any
8 shortage at all.

9 Q. And have they had consistent leadership at Henley-Young?

10 A. No.

11 Q. So you talked with Mr. Morisani about a raise for YCP
12 staff. Is that the raise that you testified about earlier
13 that Mr. Frazier got by eliminating seven positions?

14 A. I believe it is, yes.

15 Q. Is a raise like that enough to fix the staffing problems?

16 A. No.

17 Q. Have you recommended a career ladder or salary
18 progression?

19 A. Yeah. I've recommended some sort of pay progression
20 system that's based on longevity. And if there's some
21 combination of merit, that's fine, but longevity so that more
22 experienced staff get paid more.

23 Q. And have they done that yet?

24 A. No.

25 Q. Have staff vacancy or retention issues improved since the

1 staff did get this raise?

2 A. Not noticeably. It's relatively early I think after
3 that, so I think we'll have to see over the next six months,
4 but not yet.

5 Q. And do you know if this recent raise keeps up with the
6 rising cost of living?

7 A. I don't know for that area how to compare it.

8 Q. Has staff received cost of living increases each year?

9 A. No. At least in my time there, I think was one, maybe a
10 second cost of living increase. There was also -- and I think
11 the earliest cost of living increase was a result of
12 eliminating positions as well at the time.

13 Q. And this raise that came about from eliminating the seven
14 positions, when did that take effect?

15 A. I don't know exactly when it started. I know that that's
16 -- the current salary has increased. I suspect that that
17 raise took place fairly soon thereafter, which is in the fall,
18 sometime in the fall.

19 Q. And how long was it before that that staff had gone
20 without a raise?

21 A. I don't recall the timing of any cost of living raise.
22 Again, you know, I'm only aware of I think one cost of living
23 raise that occurred maybe right around the time I started and
24 one since then, but I don't recall when that was.

25 Q. Do YCPs make as much as the detention officers at the

1 jail?

2 A. They do not.

3 Q. They make less?

4 A. Yes, they make less.

5 Q. Okay. You spoke about Mr. -- you've testified about
6 Mr. Frazier's resignation letter. When's the last time you
7 spoke with Mr. Frazier?

8 A. I spoke to him briefly on January 3rd.

9 Q. Was the date of his letter?

10 A. Yes.

11 Q. And did you speak with him before or after that?

12 A. I spoke to him on January 2nd. He had -- and then I
13 spoke to him, you know, certainly off and on over the time
14 there. But January 2nd and 3rd about that letter or about his
15 resignation --

16 Q. And in those conversations on and about the date of the
17 resignation letter, did you discuss the circumstances of his
18 resignation?

19 A. No. It was more general or a more general discussion
20 about his sort of frustration and feeling like he was -- kept
21 running into walls essentially. And then the January 3rd
22 conversation was simply to confirm that -- on January 2nd, it
23 was sort of, you're planning to do this. On January 3rd, I
24 talked to him just to confirm that he had actually submitted
25 it before I, you know, shared that information with anyone in

1 any way.

2 Q. So you talked with him before and on the date of the
3 resignation about the date of the resignation?

4 A. About the fact that he was resigning, yes.

5 Q. You've testified also about the physical conditions that
6 Henley-Young and the status of needed repairs. You testified
7 that you weren't aware of what work was done to address the
8 roof or water situation. Is it the County's job to provide
9 information necessary for you to make an update compliance
10 determination?

11 MR. MORISANI: Objection. Leading.

12 THE COURT: Objection overruled.

13 A. Well, I -- it would be -- you know, it would certainly be
14 my job to sort of inquire about those sort of things and get
15 an answer. It would be helpful if the County was more
16 routinely updating us on progress of things. So rather than
17 having to ask on a site visit or call, I did not ask about the
18 roof specifically this time, which maybe I should have.

19 Ideally it would be sort of a, you know, this is what
20 we're doing, an update kind of information on a fairly regular
21 basis.

22 BY MS. VERA:

23 Q. How long has the roof been a problem? How long have they
24 had a leaking issue with the roof?

25 A. I couldn't give you a date, sort of a rough date, but I

1 think at least over the last year.

2 Q. And what about the water pressure? Can you just describe
3 what that issue is with the showers and the water going out?

4 A. Yeah. It's my understanding, and I've been there when
5 the water is out. There's no sort of pressure, and it's
6 partly a function of the infrastructure in Jackson. If it's
7 cold weather and the water breaks, many areas of the city,
8 it's my understanding, go out. I've seen news reports about
9 that.

10 Additionally Henley-Young is on a small rise in the area,
11 and so when the water pressure is significantly reduced for
12 any reason in that area of the city, they cannot get
13 sufficient water pressure to flush toilets or shower.

14 Q. And about how --

15 A. So they have to make other arrangements.

16 Q. -- about how often does that happen?

17 A. I would say several times a year it seems like.

18 Q. And as of the most recent monitoring tour where you
19 conducted interviews in January and February of this year, to
20 your knowledge is that still an issue?

21 A. Yes.

22 Q. And when this happens where do the children charged as
23 adults take their showers?

24 A. They do a couple things to sort of deal with this. They
25 bring in -- they have bottled water for drinking. They use

1 buckets of water to help flush toilets. And then they
2 transport -- they work with the sheriff's department to
3 transport youth to Raymond for showers.

4 Q. You talked about the tables with Mr. Morisani on cross.
5 You testified that they do provide a place to sit. So -- yet,
6 you've raised issues about the tables, so can you describe
7 what those issues are?

8 A. Yeah. The steel tables are bolted down. They're not
9 very comfortable to sit on for any length of time certainly.
10 They're not able to move them around the unit in any way to
11 reconfigure for any purpose, such as, you know, a small group
12 of youth playing Dominos in the corner or -- or if a mental
13 health person wants to come in and talk with a youth, to go
14 and sit at a table off to the side somewhere where they're not
15 sitting right at the table. It allows some separation and
16 space for the youth, which they need and can benefit from, as
17 well as some reasonable, just more comfort in terms of the
18 living arrangement.

19 So you couldn't -- if you need to bring them together for
20 a large group for some reason, you can, but it also gives you
21 the flexibility to separate youth a little more often and keep
22 them from sitting on top of each other right next to each
23 other all the time.

24 Q. And what's the harm of them sitting right next to each
25 other all the time?

1 A. Well, they just -- they're -- A, everyone wants a certain
2 amount of personal space. Youth are -- they're the -- just
3 the institutional nature of the tables reinforces the -- the
4 institutional expectations. They are much -- it's much --
5 much more often that they will have conversations next to each
6 other -- if something happens and something breaks out it's
7 hard -- and more youth will get involved because they're all
8 sitting right there. So it's -- you know, there's just --
9 there's a great reason to sort of spread them out a little bit
10 within the unit, maybe have some furniture that they can sit
11 at and read a book that's comfortable when they want to have
12 quiet time.

13 Q. And have you discussed this need for different furniture
14 with leadership at Henley-Young?

15 A. Yes.

16 Q. When did you first raise it?

17 A. I think probably in the first visit in 2017. I don't
18 recall if it's in the report, but I remember talking with
19 Mr. Burnside very, very early on about that. And that he had
20 gone as far as to identify furniture that they would like to
21 purchase.

22 Q. Did Mr. Burnside agree with you that the tables were
23 necessary?

24 A. Yes.

25 Q. And have other leadership others in leadership roles

1 agreed with you that the tables would improve conditions?

2 MR. MORISANI: Objection. Leading.

3 THE COURT: Objection overruled.

4 A. Well, I know Mr. Crisler has said that. I don't
5 specifically recall a conversation with Mr. Frazier about
6 that, but that's to the best of my recollection.

7 BY MS. VERA:

8 Q. You were asked about verifying the contents of incident
9 reports. When you're conducting your duties as a member of
10 the monitoring team do you draw on information provided by the
11 County?

12 A. Yes.

13 Q. And is it the County's responsibility to make sure their
14 providing you complete and accurate incident reports?

15 A. I believe so, yes.

16 Q. Mr. Morisani brought up a couple of the incident reports
17 that we had spoken about on direct. One of them was PX-46.
18 In that incident you discussed whether the staff response was
19 appropriate when they intervened in a fight. But in that
20 incident was the youth, in fact, punched by at least two other
21 youths before the YCP was able to stop the fight?

22 A. Yes.

23 Q. And before the fight broke out were the youths doing
24 schoolwork on the unit?

25 A. Well, let me just refresh my memory in a minute. I'm

1 trying to remember.

2 Q. Can we pull it up; it's Plaintiff's 46.

3 A. Yeah, that would be helpful.

4 Q. Thank you. So were the youths -- in this case before the
5 fight broke out, were the youths doing schoolwork on the unit?

6 A. That's what the report says, yes.

7 Q. And were they going in and out of resident's rooms and
8 getting shoes and doing other things?

9 A. Yes.

10 Q. Can we look at PX-47, please? So this was one of the
11 reports involving Officer McGee. You said you had spoken with
12 Mr. Burnside, who had reviewed the video, and he said that in
13 the video McGee just sat there; correct?

14 A. Correct.

15 Q. What was the significance of Mr. Burnside saying McGee
16 just sat there?

17 A. Well, one, it confirmed that he had followed up and
18 looked at the incident. Certainly that the officers staff
19 members, YCPs response was not appropriate and just to confirm
20 that was inappropriate essentially.

21 Q. And would the YCP on duty have been in the unit -- based
22 on your knowledge of how these units are configured, would a
23 YCP on duty in the unit have been within sight and sound of an
24 incident that was occurring?

25 MR. MORISANI: Objection --

1 A. Yes. Absolutely --

2 THE COURT: Hold on, Mr. Moeser.

3 MR. MORISANI: Objection. The objection is leading.

4 THE COURT: Objection sustained. Try not to lead the
5 witness.

6 BY MS. VERA:

7 Q. In the incident report, is it clear that McGee was in the
8 housing unit?

9 A. Well, this -- again, this is a report to the clinician
10 later. The youth alleged that the officer was there, but did
11 not attempt to stop it. And Mr. Burnside confirmed that he
12 was there.

13 Q. Why would the YCP on duty not know an incident or fight
14 was happening?

15 A. They'd have to -- well, there's no reason they wouldn't
16 know, so they'd have to potentially ignore it or be asleep.

17 Q. You also talked about report writing issues and the sign
18 off or review of reports by supervisors; correct?

19 A. Yes.

20 Q. And Mr. Morisani asked you if, you know, Mr. Burnside and
21 Mr. Dorsey sometimes review incident reports; correct?

22 A. Yes.

23 Q. What is the function of having a YCP supervisor review
24 incident reports?

25 A. Well, the supervisor, and then they eventually have to go

1 to Mr. Burnside or Dorsey. But the supervisor -- the
2 intention is to make sure that the report covers the basic
3 elements of what happened before and during the incident to
4 make sure that anything related to, for example, verbal
5 attempts to de-escalate are noted. If there's any reference
6 to something that could have resulted in an injury, the
7 appropriate action was taken to refer the youth to for medical
8 check.

9 So it's a quality assurance step and then also kind of a
10 teaching step to be able to go back to the YCP and say, well,
11 you know, A, what happened, and help them gradually over time
12 train them to write better reports, so that they accurately
13 reflect what happened. And that's the importance of the
14 supervisor role in this is, again, people tend to do what's
15 reinforced. So the supervisor gradually teaches them how to
16 write a better report and document, so that ultimately the
17 facility has good documentation on incidents.

18 Q. You testified that incident reporting, report writing and
19 review of these reports is something they're still working on.
20 How long have they been working on this issue?

21 A. Well, I think there's been a re- -- I think there's been
22 a strengthened interest recently in sort of report writing. I
23 know they're trying to get staff through report writing, and
24 Mr. Crisler is concerned about report writing. It's been sort
25 of a frequent or sort of constant point of discussion in

1 interviews in the past of -- you know, I see reports where the
2 item is checked that the staff member attempted to verbally
3 de-escalate things, but there's nothing in the report that
4 would indicate that very rarely. I mentioned the other day
5 that if any short-term room confinement is used, that's not
6 always noted. It's sort of a quality control issue.

7 Q. Mr. Moeser, you talked about the youths who are in
8 Henley-Young and how some of them may not always be truthful
9 or may try to manipulate staff. What are the ways that a
10 functional facility would deal with those potential problems?

11 A. Well, that's one reason why it's important for staff to
12 be consistent, because the more inconsistent you are, the more
13 opportunities there are for youths to, again, manipulate the
14 staff and, you know, sort of -- I use the term "drive a wedge"
15 between staff. So youth -- it wouldn't be uncommon for a
16 youth to say, well, this YCP allows us to do X. Why don't you
17 allow us to do X? That happens almost all the time, whether
18 it's these youths or teenagers in your own home for that
19 matter.

20 These youths have gotten particularly good at it over
21 time. They've survived that way. So to the extent that staff
22 are inconsistent it creates opportunities for youths to
23 manipulate the situation.

24 Q. So is staff training --

25 A. So that helps you --

1 Q. Go ahead.

2 A. Yeah. So training staff to -- making sure -- well, it's
3 the training -- initial training, but, again, supervision of
4 making sure people are following the policies and procedures
5 you trained them on.

6 Q. Okay.

7 A. The second aspect is the relationship development. So to
8 the extent that staff have a respectful positive relationship
9 with youths they're more likely to be truthful, find someone
10 they can trust, for example. That's why you see in a couple
11 of these the actual report is made through their clinician,
12 not to the direct staff involved, which suggests that they
13 trust that clinician for one reason or another, probably
14 because of their relationship.

15 Q. You are --

16 A. Kids are reluctant to criticize a youth care professional
17 who then has authority over them to another youth care
18 professional, so they don't know what's going to happen if
19 they do.

20 Q. You were asked about statistics on suicidality among
21 youths in detention facilities. To keep these youths safe, is
22 it necessary to have adequate mental health care?

23 A. Yes.

24 Q. And suicide prevention measures?

25 A. Yes.

1 Q. Other forms of programming?

2 A. Yes.

3 Q. And finally, I wanted to ask you about the article that
4 Mr. Morisani pointed out, D-156.

5 MS. VERA: And I don't have that to put up right now.

6 THE COURT: You can get it. It's there.

7 MS. VERA: Oh, thank you.

8 BY MS. VERA:

9 Q. So Mr. Moeser, is this the article that you were
10 discussing?

11 A. Yes.

12 Q. And I'm going to turn to page 2.

13 A. Okay.

14 Q. So some of the isolated statements that Mr. Morisani was
15 pointing out are highlighted here on this copy, but I just
16 wanted to give you a chance to elaborate on the statements and
17 what the article was about.

18 A. Well, this I think was written for the National Juvenile
19 Justice Network, if I'm not mistaken, which I was also a
20 member of. And what I argue in most situations and -- and
21 this was about reducing institutionalization of youth, and
22 that locking youth up when there's not a public safety
23 imminent or immediate public safety concern is harmful, in
24 that there's sort of two ways we harm youth:

25 One is locking them up when they don't need to be locked

1 up when they can be managed in the community in some way.

2 And, secondly, having them stay in a facility too long,
3 so longer than they need to. So they need to be reintegrated
4 back into the community.

5 And, third, really is the quality of any institutional
6 placement. So the concern is that too often -- and this is
7 back in 2015 -- that too often youths that don't need to be
8 locked up are confined for some reason or confined and that
9 the quality of programming and services is not always up to
10 what you want it to be, and then oftentimes youths are held
11 too long. And that, in the long run, does more harm than
12 good.

13 There are certainly youth that will need to be confined
14 for some periods of time to help ensure public safety,
15 certainly in the immediate or short run. How long that goes
16 on and what happens while they are locked up is a huge factor
17 in whether it's harmful or not.

18 Q. And is reduced institutionalization of youth a national
19 trend?

20 A. Yes.

21 MS. VERA: I have no further questions. Thank you.

22 THE COURT: All right. Mr. Moeser, I have just -- oh,
23 I'm sorry.

24 **EXAMINATION**

25 **BY THE COURT:**

1 Q. I just have a couple of questions I think and then the
2 United States will have an opportunity to follow up, as will
3 the lawyers for Hinds County.

4 I think on Friday you testified, Mr. Moeser, that you
5 first toured the facility, I think in October of 2016. At
6 that time, who was the administrator, if you recall, assigned
7 to Henley-Young? Who was over Henley-Young at that time?

8 A. I believe it was Johnnie McDaniels.

9 Q. Okay. And after Mr. McDaniels, then there was -- I'm
10 looking at the next name that came up on my list is
11 Mr. Frazier; is that correct?

12 A. Correct.

13 Q. Okay. And then there was a person named Harrington?

14 A. Correct.

15 Q. Is that -- okay.

16 A. That's correct.

17 Q. What was Mr. Frazier's experience, if you recall. With
18 respect to his background or experience that would qualify him
19 to lead Henley-Young?

20 A. Well, my recollection is that Mr. Frazier early in his
21 career had done some youth work in, I believe -- I think in
22 child protective services, but the bulk of his experience had
23 been in the federal prison system as an administrator and
24 different roles.

25 Q. And what about the Harrington person?

1 A. I honestly, Your Honor. I don't recall how long he was
2 there, and I don't recall much about his background at the
3 time.

4 Q. And then I think you said there was a gap next between
5 Harrington, and I guess Mr. Frazier coming back on in April of
6 2021. But -- and I think was that gap -- did you say that gap
7 was between 12 and 14 months?

8 A. I think what I intended to reflect is that in the total
9 roughly five years there had been 12 to 14 months where there
10 was not a permanent administration. I think the gap between
11 Mr. Harrington and Mr. Frazier, that particular gap was
12 probably more like six months.

13 Q. More like six months?

14 A. Yeah.

15 Q. And if there was no administrator there for six months
16 what, if any, effect would that have on the running of the
17 facility?

18 A. Well, it has an impact on, you know, asking -- in this
19 case particularly Mr. Burnside and Mr. Dorsey to assume
20 additional duties that makes it, you know, just difficult to
21 do more than one job for an extended period of time. Things
22 tend not to -- what happens when you change directors or
23 administrators is things tend to just sort of plateau. You
24 just kind of sit. Whatever progress you were making towards
25 something usually just stops waiting for the next person to

1 come, and that's really been one of the challenges over
2 Henley-Young's time of administrators coming and going. So
3 you really reach a plateau of functioning, but never really
4 move beyond it.

5 Q. And is that -- and over that 12 to 14-month gap between
6 the time that you started, and I guess today, you say it's a
7 total of 12 to 14 months is what the --

8 A. I believe that's --

9 Q. Is what Henley-Young --

10 A. My estimate is --

11 Q. I'm sorry. Go ahead.

12 A. I believe that's about right, yes, Your Honor.

13 Q. And the testimony -- is the testimony you gave about the
14 six-month period relative to the entire time period when there
15 is that gap, the total amount?

16 A. Yes.

17 Q. Now, Mr. Frazier was brought back, I think in April of
18 2021, and his last day was January 3rd, 2022, and at some
19 point in time Mr. Crisler became the head of Henley-Young; is
20 that correct?

21 A. Correct.

22 Q. Do you recall on or about what day it was?

23 A. I believe he was either appointed or actually started on
24 January 5th.

25 Q. Okay. Now, with respect to the appointments of the -- of

1 Mr. Frazier, do you know who -- the first time Mr. Frazier was
2 appointed, do you know who appointed him? Was it the Board of
3 Supervisors?

4 A. I believe it was the Board of Supervisors, yes.

5 Q. And who appointed Mr. Harrington?

6 A. It would be the same board.

7 Q. And when Mr. Frazier came back on board, who appointed
8 Mr. Frazier?

9 A. It would be the Board of Supervisors. I think there had
10 been some changes on membership, but it would be the Board of
11 Supervisors.

12 Q. And who appointed, if you know, Mr. Crisler?

13 A. Well, I believe, given the speed of that it was -- I
14 guess I don't know for sure, but the county administrator or
15 in consultation with at least some members of the board, I
16 assume.

17 Q. Okay. And with respect to Mr. Crisler's background and
18 experience you don't -- you said you don't know what
19 Mr. Harrington's background, but you did say that Mr. Frazier
20 worked for child protective services at some point in his
21 career. What, if any, experience did Mr. Crisler have that
22 you would think would qualify him to be the administrator of
23 Henley-Young?

24 A. Well, he has, you know, significant law enforcement
25 experience, I think both with the city of Jackson and with the

1 county sheriffs. He has an academic background in sort of
2 management-type issues. He does not have, however, that I'm
3 aware of any substantive experience with youthful offenders,
4 other than perhaps as arresting officer or operating a youth
5 facility for youthful offenders.

6 Q. And I think you testified the other day that there is a
7 job posting vacancy or announcement which now exists. Is it
8 your understanding that the County is seeking to hire a
9 permanent person for that particular position?

10 A. Yes.

11 Q. In speaking with the County officials or whomever you
12 speak with during your monitoring, has the County indicated to
13 you when they expect that position to be filled or their
14 target date?

15 A. I did not speak to anybody about a target date.

16 Q. What is the value of having permanent leadership as
17 opposed to interim leadership at Henley-Young or acting
18 leadership?

19 A. Well -- sure. Well, a couple of things. One is, you
20 know, the acting leadership, usually which has been done
21 through Mr. Burnside and Mr. Dorsey is -- has been -- has
22 helped take them from years ago in the SPLC agreement and make
23 some progress, but, again, it kind of plateaus without the
24 director leadership. All the hiring that's done, you know, is
25 done then by an acting person, so that the director comes in

1 and inherits who was hired, so regardless of whether they're
2 the best fit or not.

3 But it's really that sort of leadership and providing
4 vision over time, and an equally big concern or one of my
5 biggest concerns has been sort of the rotation of folks. You
6 know, really to get through this you need somebody who knows
7 what they're doing and can stick with it for at least three to
8 five years. And you -- just changing leadership is just a
9 start-and-stop situation all the time.

10 Q. And during the time that you've been a monitor, has the
11 County officials ever questioned whether you could provide
12 them particular expertise in the area that you were assigned
13 to do?

14 A. You know, I've had periodic conversations usually with
15 the director or Mr. Burnside or more recently Ms. Warfield,
16 kind of learning more about what they're doing and providing
17 suggestions and materials that they can read. But I haven't
18 gotten, you know, let's say routine requests or regular
19 request of any kind.

20 Q. No. No. I guess that maybe you misunderstood my
21 question.

22 A. Sure.

23 Q. Have the County officials in any way challenged you --
24 challenged your expertise and authority, I guess, in providing
25 and performing your monitoring role?

1 A. No, sir.

2 Q. Have they ever questioned your ability to serve as a
3 monitor in this case?

4 A. No, sir.

5 Q. Now, there was some talk between you and the United
6 States lawyer as well as Mr. Morisani about the steel tables,
7 the furniture there at that particular facility. Do you
8 recall that conversation or those --

9 A. Yes.

10 Q. -- conversations, Mr. Moeser?

11 A. Yes.

12 Q. I think on redirect you said you've talked to maybe
13 Mr. Burnside and maybe some others about the furniture as
14 early as 2016; is that correct?

15 A. Certainly as early as very early in 2017. I don't
16 recall -- I know it's not -- may not be in the baseline
17 report. I don't recall a conversation in the fall of 2016.
18 It wouldn't surprise me if I did, but I'm sure in 2017.

19 Q. Okay. You're sure in 2017?

20 A. Yes.

21 Q. Did you find that a problem in 2018 still?

22 A. Yes.

23 Q. Did you find that a problem in 2019?

24 A. Yes.

25 Q. 2020?

1 A. Yes.

2 Q. 2021?

3 A. Yes.

4 Q. The last time you -- I guess you haven't visited the
5 facility, but if the furniture is still like it was in 2021,
6 if it were like -- if that is -- if it's configured like that
7 today, would that still be a problem in your view?

8 A. Yes.

9 THE COURT: All right. All right. Those are all the
10 questions that the Court has. Well, hold on for one second.
11 Those are the questions from the Court.

12 Does the United States wish to follow up based on what
13 I've asked?

14 MS. VERA: No, Your Honor.

15 THE COURT: To Hinds County?

16 MR. MORISANI: May I proceed, Your Honor?

17 THE COURT: Yes, you may, Mr. Morisani.

18 MR. MORISANI: Thank you.

19 **FURTHER CROSS-EXAMINATION**

20 **BY MR. MORISANI:**

21 Q. Hi, again, Mr. Moeser. Just a couple of questions to
22 follow up from the Court's questions. I guess, the chairs,
23 starting with the chairs, are those chairs -- I guess the --
24 tell me, what chairs are you proposing be put in place of the
25 metal tables?

1 A. There's a couple options for furnishing a youth facility
2 and an adult facility for that matter. There are sort of, for
3 example, molded furniture that's heavy, can't be picked up and
4 thrown, that can be rearranged in a facility, can make kind of
5 a couch or a single chair of some kind. Those could be placed
6 around the unit for watching TV or youth to read or even moved
7 around for a small group.

8 Then there are chairs that can be used at -- if you have
9 separate tables, they're usually a durable plastic-type chair
10 that can be moved and reconfigured, so you can sit at a table
11 with a chair.

12 Q. Does the consent decree in your view require molded
13 chairs as you described a moment ago?

14 A. No.

15 Q. Does the consent decree require the plastic chairs that
16 you described a moment ago?

17 A. No.

18 Q. And I take it the plastic chairs can be moved; correct?

19 A. Yes.

20 Q. If they can be moved, they can be picked up; correct?

21 A. Correct.

22 Q. And if they can be picked up, they can be used as a
23 weapon, can't they?

24 A. They can be thrown or used to, you know, push somebody
25 away, for example.

1 Q. And the metal -- the current metal tables and chairs that
2 are set up, I know we went over it earlier, but those are
3 secured to the floor; correct?

4 A. Correct.

5 Q. And those aren't cheap, are they?

6 A. Which ones?

7 Q. The metal chairs are not cheap; correct?

8 A. The steel tables, I really don't know. I've never tried
9 to purchase those.

10 Q. Okay. Now, you talked a little bit, too -- the Court had
11 asked you about Mr. Crisler, and you agree, he's interim
12 director at the time -- at the moment; correct?

13 A. Correct.

14 Q. And at the facility as well, you have Mr. Burnside and
15 Mr. Dorsey; correct?

16 A. Correct.

17 Q. And Mr. Burnside and Mr. Dorsey have -- they have
18 experience; correct?

19 A. Yes.

20 Q. They're a good team, aren't they?

21 A. Yes.

22 Q. I'm going to show you a document, and you agree, too, the
23 County is looking, actively looking for a permanent director,
24 don't you?

25 A. It's my understanding the job is posted on their website,

1 yes.

2 Q. Mr. Moeser, I'm going to show you one of the slides from
3 your PowerPoint to Berrien County. Do you see that,
4 Mr. Moeser?

5 A. Yes.

6 Q. Berrien County was looking for a facility director, too,
7 weren't they?

8 A. Yes, they are.

9 Q. And you have a slide here dedicated to the fact they were
10 looking for a facility director, and I think I'll read it
11 where I'm pointing. "The next facility director has a good
12 team to join, but needs to..." And there's an ellipsis.

13 Do you see that?

14 A. Yes.

15 Q. Just like Hinds County, the next facility director here
16 has a good team to join, doesn't it?

17 A. I would say there's a -- there's a good team, yes.

18 Q. Among the other -- among the things that you recommend is
19 someone who would be on-site, visible and actively engaged
20 with staff; right?

21 A. Correct.

22 Q. And do you have any reason to believe that Marshand
23 Crisler has not been on-site, visible and actively engaged
24 with staff as interim director right now?

25 A. I don't have any reason to believe he's not been there

1 regularly.

2 Q. And you also recommend that someone who would celebrate
3 other's success and hard work; right?

4 A. Yes.

5 Q. And you don't have any reason to believe that Marshand
6 Crisler would not do that, do you?

7 A. You know, it's been a relatively short time, but
8 certainly the conversations have been positive.

9 Q. All right. And you'd recommend someone who would listen,
10 don't you?

11 A. Yes.

12 Q. And you don't have any reason to believe that Marshand
13 Crisler will not do that, do you?

14 A. I don't.

15 Q. And you recommend that someone should be transparent in
16 making changes, don't you?

17 A. Yes.

18 Q. No reason to think Marshand Crisler will not do that if
19 it calls -- if the situation calls for it, do you?

20 A. I would hope so. I don't know him well enough to say.

21 Q. And you also recommend someone who would model and
22 promote fairness and equity; right?

23 A. Yes.

24 Q. No reason to think Marshand Crisler would not do that;
25 correct?

1 A. Correct.

2 Q. And, lastly, you recommend someone who would be an
3 advocate for all staff to stakeholders and decision-makers.

4 Do you see that?

5 A. Yes.

6 Q. No reason to think Marshand Crisler will not do that, do
7 you?

8 A. Correct.

9 Q. And I don't see anything mentioned on here that the next
10 director should stay two to five years.

11 Do you mention that?

12 A. I did not.

13 MR. MORISANI: No further questions, Your Honor.

14 MS. VERA: May I follow up, Your Honor?

15 THE COURT: Yes, you may.

16 **FURTHER REDIRECT EXAMINATION**

17 **BY MS. VERA:**

18 Q. Mr. Moeser, you just testified there's no provision in
19 the agreement specifically requiring what kind of furniture
20 they need at Henley-Young; right?

21 A. Correct.

22 Q. Do you think that this discussion about the furniture is
23 relevant to compliance?

24 A. Yes.

25 Q. How so?

1 A. Well, and I've made a number of recommendations about the
2 physical environment. Youth are particularly sensitive to the
3 physical environment, to the level of noise, to comfort, to in
4 this case the ability to separate from others when they want
5 to. Youth are particularly all of -- all of -- all those
6 things contribute to sort of an emotional level that elevates
7 their -- their level that elevates their emotional reaction
8 above and beyond sort of thinking and thinking clearly about
9 things. So all of these things are those things, whether it's
10 the furniture or I recommend acoustical changes that would
11 make the environment -- help contribute to managing the
12 behavior of the youth and make it more comfortable to the
13 extent they are more comfortable and have some personal space
14 easily. It will have a positive impact on their behavior.

15 Q. And is the furniture that you've recommended and that
16 you've discussed with leadership at Henley-Young detention
17 grade or otherwise appropriate for a facility like this?

18 A. Yes, this is the kind of furniture that's used in
19 facilities all around the country, and I think many adult
20 facilities as well. It's durable. It's -- it has --
21 multi-functional in terms of being able to move it around as
22 you need to.

23 Q. Have you talked with Mr. Crisler about changes that he
24 wants to make?

25 A. About changes he wants to make?

1 Q. Yes.

2 A. Well, frankly, the two things that we talked about that
3 he expressed an interest in was staff salaries and
4 furnishings, whether he -- I don't know that he -- I don't
5 recall a specific, you know, I'm going to do X, Y, Z to do
6 that, but he did express some interest in those items.

7 Q. And are those issues or goals that Mr. Crisler has, have
8 other directors of Henley-Young attempted to make those types
9 of changes?

10 A. Yes.

11 MS. VERA: Thank you. No further questions.

12 THE COURT: All right. Does the County wish to follow
13 up in any way?

14 MR. MORISANI: I don't believe so, Your Honor. I just
15 would like to mark this for identification, the PowerPoint, if
16 I could? May I approach?

17 THE COURT: Right, you may. That will be D-157, I
18 think, for ID only.

19 MR. MORISANI: Yes, sir, for ID only.

20 (Defendants' Exhibit 157 marked for identification.)

21 THE COURT: We're at the noon hour. Who is the
22 Government's next witness? We won't start. We're going to
23 take our lunch break, but who is the Government's next
24 witness?

25 MR. CHENG: We'll be calling Ms. Lisa Simpson.

1 THE COURT: Okay. All right. All right. It is now
2 12:01. Let's start back up at 1:30. I've got a couple of
3 errands to run, and I want to make sure we get enough time.
4 And y'all have lunch to do, so we'll start back up at 1:30 and
5 we'll go from there.

6 (A lunch recess was taken.)

7 THE COURT: You may be seated.

8 Is there anything we need to take up? Is the
9 Government ready to call its next witness?

10 MR. CHENG: Yes, Your Honor. The United States calls
11 Elizabeth Simpson.

12 THE COURT: Okay.

13 MR. CHENG: If we could bring up Plaintiff's Exhibit --

14 THE COURT: Hold on one second. Ms. Simpson, you've
15 been in the courtroom the entire time, so you know how this is
16 done. You can remove your mask and just follow the rules that
17 I've given everybody else.

18 THE WITNESS: Thank you, Your Honor.

19 THE COURT: Mr. Cheng, you may proceed.

20 MR. CHENG: Thank you, Your Honor. If we could bring
21 up Plaintiff's Exhibit No. 3, PX-3.

22 THE COURT: Is your microphone on, Mr. Cheng?

23 MR. CHENG: Yes. How is that?

24 THE COURT: That's much better.

25 MR. CHENG: Very good.

1 **ELIZABETH SIMPSON,**
2 **having been first duly sworn, was examined and**
3 **testified as follows...**

4 **DIRECT EXAMINATION**

5 **BY MR. CHENG:**

6 Q. Ms. Simpson, could you provide us with your educational
7 background?

8 A. Yes. I graduated from Penn State University with a major
9 in political science; that would have been in '76. And then I
10 went on to law school at Harvard Law School and graduated from
11 Harvard in 1981.

12 Q. And can you provide us with any licenses and
13 certifications?

14 A. I'm a member of the New Mexico bar and admitted to
15 practice in federal court in Tenth Circuit and U.S. Supreme
16 Court.

17 Q. And could you describe and summarize your professional
18 work history?

19 A. After law school, I clerked at the Ninth Circuit. The
20 central office of staff attorneys, and during that time I was
21 assigned in chambers to Judge Pregerson in Los Angeles and
22 Judge Boochever in Alaska. I then worked for the law firm of
23 Luebben Hughes Tomita Bork Simpson & Edy, in Albuquerque, New
24 Mexico, and initially specialized primarily in Indian law, but
25 that sort of morphed into civil rights and specifically

1 representing individuals in jail and prison, including a
2 couple of class actions regarding jail conditions.

3 I then founded and was the director of a program called
4 Crossroads For Women, which is a reentry program for women
5 coming out of jail and prison with co-occurring mental health
6 disorders and substance abuse disorders. I then went to -- I
7 was then hired by the Vera Institute to start a pretrial
8 services program for the City of New Orleans, and after that I
9 came back to Albuquerque and was on contract with the county
10 primarily to work on jail population reduction strategies,
11 including criminal justice system reforms and mental health
12 diversion programs.

13 Q. Do you have any experience implementing criminal justice
14 coordinating committees or reentry programs?

15 A. Yes, both. Crossroads, of course, was a reentry program,
16 and while on contract with the county, we created a supportive
17 housing program for frequent utilizers in the jail. We also
18 created a discharge planning team, and we created a reentry
19 center that had -- that all people being released from the
20 jail would go through and could access services, and then on
21 the criminal justice reform side, excuse me, the -- certainly
22 creating the pretrial program in New Orleans was creating
23 criminal justice reform, and actually even when I was with
24 Crossroads, I was involved in a lot of committees and task
25 forces that looked at improvements in the criminal justice

1 system. And then again when I was on contract with the
2 county, a lot of my work was implementing criminal justice
3 system reform.

4 Q. And have you done any consulting or monitoring experience
5 or expert testimony in this area?

6 A. I have not done expert testimony. I have done consulting
7 for the Vera Institute regarding pretrial services programs
8 and CJCCs, criminal justice coordinating councils. And I'm
9 sorry. What else did you ask about?

10 Q. Monitoring, expert, or consulting expert work.

11 A. Monitoring. When I was still in private practice, I was
12 one of several attorneys representing the subclass of
13 detainees with mental health disorders in our local jail. And
14 we entered into a consent decree, and I did monitoring in that
15 case after the entry of the consent decree for about five
16 years, and then, of course, the monitoring in this case.

17 Q. Have you done any teaching, lecturing or publications in
18 the fields of pretrial release or the prisoner complaints?

19 A. I did a lot about -- of presentations, I guess you would
20 call it, where I would present on CJCC issues or pretrial
21 services issues, and that included, you know, sort of judicial
22 conclaves or legal education, district attorneys, public
23 defenders, national association of counties, for some reason
24 California probation officers, and many other presentations of
25 that sort. No publications.

1 Q. Did you do any work with the New Mexico Supreme Court?

2 A. I was involved in the effort to make some legislative
3 changes in the area of pretrial, and that had been spearheaded
4 by the Supreme Court. I was then appointed to serve on --
5 appointed by the New Mexico Supreme Court to serve on the
6 committee to rewrite the court rules related to pretrial
7 release.

8 Q. And do you recognize Plaintiff's Exhibit 3?

9 A. Yes.

10 Q. And what is Plaintiff's Exhibit 3?

11 A. That is my resume or CV.

12 MR. CHENG: We would move to admit Plaintiff's
13 Exhibit 3, Your Honor.

14 THE COURT: Any objection?

15 MR. SHELSON: No, sir.

16 THE COURT: All right. P-3 will be received in
17 evidence.

18 (Plaintiff's Exhibit 3 entered.)

19 MR. CHENG: And at this time we tender Ms. Simpson as
20 an expert in prisoner reentry and discharge, detainee
21 complaint and grievance procedures, criminal justice
22 coordination programs, and community corrections.

23 THE COURT: Any objections other than the continuing
24 objection, or would the defendant like to voir dire the
25 witness?

1 MR. SHELSON: I'd like to voir dire the witness, Your
2 Honor.

3 THE COURT: Okay. All right.

4 MR. SHELSON: May I proceed, Your Honor?

5 THE COURT: Yes, you may.

6 **VOIR DIRE EXAMINATION**

7 **BY MR. SHELSON:**

8 Q. Good afternoon, Ms. Simpson.

9 A. Good afternoon.

10 Q. You have a detention officer certification?

11 A. No.

12 Q. Are you a Certified Jail Manager?

13 A. No.

14 Q. Do you have any certifications regarding jails?

15 A. No.

16 Q. Have you ever worked in a jail?

17 A. I've spent a lot of time working in jails but not as a
18 jail employee.

19 Q. Do you have any use-of-force training?

20 A. No.

21 Q. Are you a medical expert?

22 A. No.

23 Q. Are you a mental health expert?

24 A. With respect to running a reentry program for persons
25 with mental disorders, I would say I have that expertise.

1 Q. Do you claim expertise in the field of mental health
2 itself?

3 A. No.

4 Q. Have you ever been the receiver of a jail?

5 A. No.

6 Q. Until today have you ever been tendered as an expert
7 before in any proceeding?

8 A. No.

9 Q. So obviously then you've never been accepted or
10 rejected --

11 A. That's right.

12 Q. -- as an expert?

13 MR. SHELSON: All right. Thank you, Your Honor.

14 That's all the questions I have. Your Honor, in addition to
15 our standing objection, we object to the fields that
16 Ms. Simpson was tendered as.

17 THE COURT: Thank you, Mr. Shelson.

18 Any response from the Government?

19 MR. CHENG: Your Honor, I think her direct shows that
20 she's actually worked in this area and provided advice and
21 opinion to the New Mexico State Supreme Court. She also ran
22 an actual pretrial release program. She has practice in the
23 area as an attorney. All of these areas are within her
24 expertise. She lectures and teaches in the area. I think
25 it's sufficient to demonstrate her expertise on these issues.

1 THE COURT: Okay. The Court will allow this witness to
2 testify as an expert in the designated area, and I do
3 understand what the defendants' continuing objection is.

4 You may proceed.

5 MR. CHENG: Thank you.

6 **CONTINUED DIRECT EXAMINATION**

7 **BY MR. CHENG:**

8 Q. Ms. Simpson, what is your role in this case?

9 A. I'm the lead monitor for the monitoring team.

10 Q. And how were you selected?

11 A. Well, I understand that my name was suggested to the
12 defendants, and I was asked to meet with the defendants and
13 talked with defense counsel and some of the defendants prior
14 to my appointment. And I understand that they agreed to my
15 appointment, and then I was appointed by the Court.

16 Q. And when did you begin monitoring in this case?

17 A. Well, I actually had my first visit to the jail I believe
18 in the summer of 2016 when the defendants wanted to meet me
19 prior to agreeing to my appointment. So I visited with
20 defense counsel and the sheriff and the major and toured the
21 jail at that time, but the monitoring didn't start until
22 October 2016.

23 Q. As the monitor, do you get to pick a group of subject
24 matter experts to assist you with your assessment?

25 A. Yes.

1 Q. And how did you pick your monitor subject matter experts?

2 A. Well, the Department of Justice had recommended several
3 individuals in different roles, and I interviewed those
4 individuals and reviewed their resumes and selected those
5 individuals. The medical expert of the team eventually left
6 because of health issues, and I brought on Dr. Dudley at that
7 point, also through review of resumes and interview process of
8 several candidates.

9 Q. Did the defendants also get to have any input into
10 selection of subject matter experts?

11 A. I believe they had that opportunity. I don't think I
12 received any input.

13 Q. Did they provide you with any separate resumes?

14 A. No.

15 Q. Did they object to any of the people you hired as subject
16 matter experts?

17 A. No.

18 Q. Let's talk a little bit about, you know, the activities
19 you engage in for your monitoring compliance. Can you
20 estimate the number of site visits or virtual visits you've
21 conducted in this case?

22 A. Well, we last did the fifteenth monitoring report, and
23 there was a baseline visit. And then we did one in January,
24 so that would be 17.

25 Q. And some of those, were they virtual visits?

1 A. Yes. We had an on-site visit in February 2020, and then
2 the next five were virtual.

3 Q. And why did they have to be virtual?

4 A. Because of COVID and the risk of infection.

5 Q. When establishing the virtual site visit protocols, did
6 you talk with the defendants about how to run those?

7 A. Yes. And probably especially with the compliance
8 coordinator to figure out how to manage the technology and the
9 document production, but, yes.

10 Q. Do you include a schedule of interviews in all of your
11 monitoring reports?

12 A. I do.

13 Q. And does that schedule, does that describe the people you
14 try to interview during each of those visits, your site
15 visits?

16 A. Yes. Sometimes we have to adjust, but the -- from the
17 initial schedule, but the schedule that goes into the
18 monitoring report is what we actually did.

19 Q. In addition to interviewing people on the schedule, do
20 you also review documents?

21 A. Yes.

22 Q. How does that process work?

23 A. Typically the -- well, we receive documents on a monthly
24 basis that are uploaded by the compliance coordinator into
25 Google Docs, a web-based platform, so we review those on a

1 monthly basis.

2 But then there are documents that we request in
3 conjunction with the upcoming site visits, and we send out a
4 document request and those documents are uploaded into Google
5 Docs. Sometimes we don't get some of the things we request
6 but quite a -- we do review quite a few documents. And then
7 more documents might be mentioned in the course of the site
8 visit, and we will request those if we feel we need to review
9 them.

10 Q. You mentioned something about monthly documents. What
11 types of documents are provided monthly?

12 A. The -- there's a spreadsheet that includes a lot of
13 information pulled from the incident reports, including the
14 narratives and the supplemental narratives, so we review that.
15 The CID, the criminal investigation division, reports are
16 reviewed. The IAD, internal affairs division, reports are
17 reviewed, various spreadsheets related to both of those.

18 Classification and records produces a packet that
19 includes file audits and classification logs, release logs,
20 more recently transfers between facilities, the
21 indicted/unindicted list. So that's generally what's in
22 there.

23 Q. These packages that have been prepared monthly, can you
24 describe a little bit about how this process was developed
25 over the course of your monitoring?

1 A. So part of it -- I guess it got really expanded once we
2 started doing our remote site visits, because previously we
3 would often read, review those on-site. But when we were
4 doing them remote, obviously we weren't reviewing them
5 on-site. So we had developed much more of a process of
6 getting documents and reviewing them prior to the site visit,
7 which was quite efficient and we'll certainly continue doing
8 that.

9 And there also had been some improvement in the ability
10 to sort of -- the defendant's ability to send us documents in
11 an efficient way, particularly the spreadsheet on the incident
12 reports. We used to get all of the individual incident
13 reports, which was intensive for them and was not as useful to
14 us because it didn't have as much information. So the
15 development of the spreadsheet was quite an improvement.

16 Q. Does the consent to decree require defendants to create
17 these type of spreadsheets or systems for tracking
18 information?

19 A. Yes, it does.

20 Q. Do you also interview or communicate with detainees?

21 A. Yes.

22 Q. And outside of the site visits, do you also communicate
23 with defendants or their staff about this case?

24 A. Yes.

25 Q. And what types of calls do you -- or communications do

1 you have to engage in?

2 A. Well, certainly as a follow-up to site visits I often
3 have follow-up questions, like with classification or with
4 Sergeant Tillman on records just clarifying things as --
5 typically as I'm preparing the report. I do try to stay on
6 top of things that happen in between site visits. With the
7 most recent jail administrator, we had intended to have
8 biweekly check-ins. It actually ended up being much more
9 irregular, but I would have check-ins with her. And my team
10 would have communications with individuals in between site
11 visits as well relevant to what they're looking at, and then I
12 also communicate with the attorneys as needed.

13 Q. Do you have monthly calls with the parties?

14 A. Yes.

15 Q. And do you also have regular calls with other types of
16 stakeholders in this case?

17 A. Yes. I don't know how regular, but I -- you know, have
18 talked with the district attorney, the public defender,
19 behavioral health services, mostly before Dr. Dudley came on
20 board, and other such individuals.

21 Q. And for these types of communications, do you provide
22 technical assistance through any of this process?

23 A. Yes. Yes, we certainly attempt to do so.

24 Q. And besides the communications you engage in, do your
25 subject matter experts get involved in these communications as

1 well?

2 A. Yes, and they have their own as well. But, yes, I mean,
3 for example, Mr. Parrish did the staffing analysis, and that
4 involved a great deal of communication with employees of the
5 defendant.

6 Q. Do you know if Mr. Parrish also communicated with former
7 jail administrators?

8 A. Yes, as well as the most recent one.

9 Q. And what are these communications for?

10 A. Technical assistance, check-ins, just developments seeing
11 if we can be of assistance in some areas.

12 Q. Are the defendants supposed to provide you with immediate
13 notifications when there's a major, serious incident?

14 A. Yes.

15 Q. And how does that process work?

16 A. I believe the compliance coordinator reviews the incident
17 reports, and there's a separate document called the rapid
18 notification. And those I believe go to the compliance
19 coordinator and then he uploads them into Google Docs, and
20 sometimes he e-mails us that there's been a new one uploaded.

21 Q. If you don't check Google Docs, do you know that there
22 has been a rapid notification or immediate notification?

23 A. No. Like I said, sometimes he would send us an e-mail,
24 but not always.

25 Q. Are they required to notify you immediately when a

1 serious incident occurs like that?

2 A. Yes.

3 Q. Do you feel as though the information you've received is
4 sufficient to form an opinion about compliance and the
5 measures needed to achieve compliance?

6 A. Yes.

7 Q. How much time have you spent on this matter as a monitor?

8 A. A lot, much more than I anticipated.

9 Q. Let's talk a little bit about the type of technical
10 assistance you provide. Can you describe the types of
11 technical assistance you provide to the defendants?

12 A. Well, there's been a lot. Initially we -- after every
13 site visit, we did priority recommendations and that -- there
14 was complaint that was too overwhelming. So at one point, I
15 switched to writing what I called a road map, which was steps
16 to achieve, at least address the -- the staffing.

17 I then worked pretty closely with Mr. Teuwissen and
18 Ms. Barker, the prior board attorney and the prior sheriff's
19 attorney, to turn that document into what became their
20 proposal for the stipulated order. I met with justice court
21 judges to talk about the fines and fees issue. I met with
22 Judge Green to talk about pretrial services.

23 I -- and we do -- I do a lot of work on policies and
24 procedures. At one point -- well, the defendants had sought
25 some individuals to do the policies and procedures, and none

1 of those efforts worked out. In the meantime, Mr. Parrish had
2 talked with the NIC, the National Institute of Corrections,
3 about providing technical assistance in the area of booking
4 and records, and funding from the NIC fell through at that
5 point in a change of administration. And so he interviewed
6 the individuals they would have selected and recommended
7 Karen Albert.

8 The defendants asked if I would take her onto my team and
9 bill her through my contract, so she began the work on records
10 and bookings. And the defendants liked working with her and
11 asked if she would continue on doing the policies, which she
12 has, so that's billed through my team.

13 Q. Slow down. Let me break up a few of those pieces.

14 A. Okay.

15 Q. Let me ask you first about Karen Albert. Were the
16 defendants supposed to pay for Karen Albert?

17 A. Yes.

18 Q. Okay. Whose contract is she actually under?

19 A. She is under my contract. But I bill her, and the County
20 does pay for her services, but through my contract.

21 Q. All right. But when she does work under your contract is
22 she drawing funds that otherwise would be paying your
23 services?

24 A. Yes.

25 Q. And you also talked about the stipulated order. When the

1 defendants approached you with the stipulated order, was that
2 when DOJ had moved for contempt?

3 A. Yes. And they didn't approach me with an order. We
4 worked together to develop something.

5 Q. And so was that process going on outside of whatever was
6 going on with the Department of Justice at the time?

7 A. No. I think they transmitted that proposal to the
8 Department of Justice and then the attorneys took it from
9 there. I wasn't involved after that.

10 Q. All right. As the stipulated order was being revised
11 initially was that -- who was involved in that process
12 initially?

13 A. Well, when I was working with Mr. Teuwissen and
14 Ms. Barker.

15 Q. Was DOJ involved at that stage of the process?

16 A. No. No.

17 Q. Now, let's talk a little bit about the policy writing
18 process. Can you describe the policy drafting and
19 implementation process that's been adopted?

20 A. Well, it's changed over the years. Initially, Ms. Albert
21 was working with a policy committee that was comprised of
22 staff from the detention center -- detention services. And
23 she was facilitating it, so she would, like, provide a
24 skeleton or an outline, and then the committee -- it would be
25 assigned to a member of the committee who would work with the

1 individuals that worked in that area and flesh out the outline
2 specific to Hinds County. Then it would come back to the
3 committee for further editing and back to Ms. Albert. Then at
4 that point when they felt they had a draft, they would send it
5 to me, I think, and I would send it to my team and to DOJ, and
6 we would get comments back.

7 And this is the part that changed over the years. It
8 would go back to the committee, and the committee had a very
9 difficult time dealing with the comments and ended up spending
10 most of their time on revisions instead of developing new
11 policies. So I became involved -- I don't know -- maybe three
12 years ago. And when the comments come back, I work with
13 Ms. Albert, and most recently with Major Bryan, to try to
14 address the comments and get to a place where we have an
15 agreed-upon policy.

16 Q. And who was actually on the policy review committee?

17 A. It was a number of different people over the years.
18 Captain Sandra Dalton was a very effective member until she
19 retired. I believe Major Fielder, or Warden Fielder was on.
20 Felicia Johnson was on. I think Kenisha Jones was on, and I'm
21 sure there were others I'm not remembering.

22 Q. About how many policies have actually been approved by
23 the committee and through this process?

24 A. I think we're at 39 at this point.

25 Q. About how many policies still need to be drafted?

1 A. About 50.

2 Q. Did the policies that got approved include a mental
3 health policy?

4 A. Yes.

5 Q. And does that policy include requirements for a mental
6 health unit?

7 A. Yes.

8 Q. Does it also include requirements for discharge planning?

9 A. Yes.

10 Q. Have you facilitated other types of technical assistance
11 to the defendants from other groups?

12 A. Well, it became apparent very early on that staffing was
13 a huge issue. And so in the fall of 2019, I recommended an
14 individual that specialized in human resources in correctional
15 facilities, and he met originally with Mr. Teuwissen and
16 Ms. Barker. And they --

17 Q. I'm sorry. Who is that?

18 A. His name is Matt Rivera. He met with Mr. Teuwissen and
19 Ms. Barker, and they liked his services, his approach. He did
20 a site visit in, I believe February 2020, and then intended to
21 continue providing that consultation. His services really
22 weren't utilized very efficiently or effectively, and
23 eventually it pretty much just stopped.

24 And then when Major Bryan came on, I told her about the
25 history and that he would still be available. And then I

1 clarified with Mr. Teuwissen and Ms. Barker that it was okay
2 to start him up back again. And Ms. -- Major Bryan worked
3 with him in more recent months.

4 Q. So there's a recruitment or retention study that was
5 completed earlier this year. Is that Mr. Rivera?

6 A. I believe he worked together with Ms. -- Major Bryan to
7 complete that.

8 Q. And were there other opportunities for technical
9 assistance that were missed by the defendants?

10 A. I'm not remembering anything else right now.

11 Q. Well, let me ask, were there other organizations that
12 tried to provide technical assistance here in the County?

13 A. Well, the Justice Management Institute, JMI, they
14 provided -- they were in contract with the County to provide
15 assistance in developing the CJCC and sort of a proposal for
16 developing pretrial services. The breadth of that contract
17 was not as broad as required by the settlement agreement, and
18 it -- and it was stopped at some point without the additional
19 services that were required in the settlement agreement.

20 Q. And how about work from NIC; did Ms. Bryan do anything
21 with NIC?

22 A. She got approval to have them do what's called a JJSA,
23 jail justice something assessment, and NIC was willing to do
24 it. And it involves looking at the coordination between the
25 jail system and the justice system. The -- several sheriffs

1 back rejected the opportunity.

2 Q. Just to be clear, who is Mr. Teuwissen and Ms. Barker?

3 A. Mr. Teuwissen was the board attorney up until the end of
4 2019, and Ms. Barker was the sheriff's attorney up until
5 November of 2021.

6 Q. And you talked a little bit about the JMI project not
7 being as complete as it should have been. What was it
8 supposed to do? What was JMI supposed to be doing?

9 A. Well, they were to assist the County in getting a CJCC up
10 and running and focus on diversion strategies and actually
11 assist in implementing diversion strategies as they were
12 developed by the CJCC.

13 Q. And just to be clear, what does the CJCC stand for again?

14 A. Criminal Justice Coordinating, either Council or
15 Committee, depending on the jurisdiction.

16 Q. And what's the purpose of having the CJCC?

17 A. It brings all of the justice stakeholders together to
18 address any barriers or problems in the criminal justice
19 system that impact the efficiency and fairness of the system.

20 Q. And what type of stakeholders would be included in such a
21 CJCC?

22 A. Typically the chief judge of any courts that are within
23 the jurisdiction, the district attorney, the public defender,
24 the mayor, the police chief. And then on the County side, a
25 representative of the board and the county administrator, and

1 typically, but not always, somebody from the behavioral health
2 system and sometimes juvenile justice representatives are
3 included.

4 Q. Let's move on to just sort of getting an overview on what
5 you're finding in terms of compliance. It's previously been
6 entered into the record your fifteenth monitor's report.
7 Could you summarize what defendants' overall status is in
8 terms of compliance with the consent decree based on that
9 report?

10 A. Well, they are not in compliance. Many provisions are
11 listed as noncompliant. Many more are listed as partial
12 compliance, and there's a few that are entered as substantial
13 compliance or sustained compliance.

14 Q. Do you provide a chart in your reports where you identify
15 sort of the number of items that are in partial or non or
16 substantial compliance?

17 A. Yes, I do.

18 Q. And after your most recent tour, when do you anticipate
19 issuing your sixteenth report?

20 A. Well, it would be in early March. Although setting aside
21 these weeks has slowed the process, but we'll probably still
22 try to aim for that.

23 Q. And you mentioned earlier you did an on-site inspection;
24 is that right?

25 A. Yes, I did partial on-site.

1 Q. And which part was virtual?

2 A. So Mr. Parrish was on-site for the week. I was on-site
3 for the first two days and then remote for two days of that
4 week. And then some things had to be rescheduled into the
5 following week, so those were remote as well.

6 Q. Based on your team's most recent assessment of conditions
7 in the jail, what do you anticipate will be the defendants'
8 overall status of compliance with the consent decree and the
9 stipulated order?

10 A. There are lots of areas in which they are out of
11 compliance.

12 Q. And also entered into the record were your ninth, tenth,
13 eleventh, twelfth, thirteenth, fourteenth and interim reports.
14 Are you familiar with those reports?

15 A. Yes.

16 Q. How would you compare the defendants' current state of
17 compliance with what you found over these prior reports?

18 A. I think the numbers have changed a little, not a lot, and
19 I would say the overall condition of the facility and sort of
20 the inmate experience is pretty much the same as when we
21 started.

22 Q. How about for staffing and supervision; what's been the
23 trend?

24 A. Well, staffing is as low as it's ever been since we
25 started, lower than it's ever been. And as a result,

1 supervision is even less than it's been in the past.

2 Q. And when you say "numbers of provisions," are you talking
3 about the number of provisions in compliance, or what do those
4 numbers refer to?

5 A. Well, for each paragraph we have a finding of compliance
6 or noncompliance or partial, and so I add those up. And many
7 of the paragraphs have multiple requirements, so, for example,
8 paragraph 42 has staffing requirements, classification
9 requirements, mental health requirements. And if -- typically
10 if any part of the paragraph has been -- has had some
11 improvement, we'll list it as partial compliance, even though
12 some other part of the paragraph may be woefully out of
13 compliance.

14 Q. Have you noticed any trends or patterns with leadership
15 at the jail?

16 A. Well, the leadership has changed frequently since we've
17 been monitoring, not just at the administrator position, but
18 at the command level position as well.

19 Q. Have you noticed any trends or patterns with the way they
20 do planning or try to come into compliance with the consent
21 decree?

22 A. It really seems to be sort of episodic in that there will
23 be some activity or a plan going in one direction, and next
24 thing we know, that didn't happen. Something either is a
25 completely different approach. And especially with change in

1 leadership, there seems to be changes in direction frequently.

2 Q. Did Ms. Bryan have any plans in the works before she was
3 terminated?

4 A. She had quite a few things that she was hoping to
5 implement as I understand it.

6 Q. And had your team made any assessment about the quality
7 of some of those plans or the promise of those plans?

8 A. Well, I think a lot of what she was proposing and
9 attempting to accomplish were good measures. It wasn't going
10 to be sufficient to bring the jail into compliance in the
11 short term, but they were good measures.

12 Q. Have you noticed any trends or patterns over the years
13 with the defendants' ability to self-assess or correct
14 violations of the Court's orders?

15 A. Well, the settlement agreement includes a requirement for
16 self-assessment that's supposed to be done before every site
17 visit, and I think over the course of the five years we've
18 received that twice, once early on and once a couple years
19 later. Other than that, we have not received self-assessment
20 on the settlement agreement.

21 Now, we do get assessment of the stipulated order. It
22 doesn't always appear to be accurate, but we do get it.

23 Q. And why do they need to be able to self-assess and
24 self-correct their violations?

25 A. So they can take control of the coming into compliance

1 process. So they understand what the deficiencies are, and
2 essentially have an action plan and assigned personnel to
3 accomplish whatever the action items are.

4 Q. We talked a little bit about the policies and procedures
5 process. Let me ask, is writing a policy the same thing as
6 implementing one?

7 A. No.

8 Q. And how are they different?

9 A. Well, you can write a policy, and if there's not training
10 around it or sort of supervisory oversight of the practices in
11 the jail, it will just sit there in the books. There has to
12 be a process to roll out a policy and train and sort of
13 correct.

14 Q. Have the defendants implemented all necessary policies
15 and procedures to provide a reasonably safe and secure
16 environment for detainees?

17 A. No.

18 Q. In general, what harm or serious risk of harm results
19 from the failure to implement necessary policies?

20 A. Well, the lack of supervision to inmates obviously leads
21 to events in the jail, such as assaults and fires that present
22 a safety hazard, and similarly with the ability to provide
23 medical and mental health care, the appropriate use of force,
24 all of those things impact safety within the jail.

25 Q. And what impact does this have on defendants' ability to

1 hold staff accountable for violations of policy?

2 A. Well, if the supervisors aren't adequately trained, they
3 can't hold the deputies to -- to proper actions through the
4 policies. And that has been a problem when you review their
5 incident reports and see some pretty clear violations of
6 policy with no corrective action happening.

7 Q. Are you familiar with Ms. Bryan's resignation letter?

8 A. Yes.

9 Q. Is there a policy about admitting people into the jail
10 who are medically ill?

11 A. Yes.

12 Q. Was Major Bryan's resignation associated with that
13 policy?

14 A. I believe there was an event where medical had declined
15 booking an individual for medical reasons, and there was a
16 director from -- directive from above to admit that individual
17 anyway.

18 Q. What serious harm, if any, can result from that kind of
19 decision to override the policy in question?

20 A. Well, certainly there's potential harm to the individual
21 that's booked. Although there's medical on-site, it's nothing
22 like a hospital or an emergency room. So that's potential
23 harm to the individual, as well as potential liability on the
24 sheriff's department.

25 Q. In that particular situation, would a decision by the

1 sheriff also be an overriding of a medical staffer's
2 recommendation?

3 A. Yes.

4 Q. Let's talk about the protection from harm provisions in
5 the consent to decree 4(a). Have the defendants implemented
6 consent decree provisions protecting inmates from serious
7 inmate on inmate violence?

8 A. No.

9 Q. What serious harm or risk of harm does this pose for
10 detainees?

11 A. Well, they can be assaulted by other inmates, and some of
12 those assaults can be extremely serious, including death, as
13 we know from this past fall.

14 Q. And based on your most recent assessment, can you talk
15 about how they're violating this provision?

16 A. Well, a number of the housing units are pretty
17 unsupervised. So, for example, in early January there was at
18 least one weekend where they only had three officers assigned
19 to the pods for the weekend, so one officer in each control
20 room and no officers on the floor. So that lack of
21 supervision can definitely result in inmate-on-inmate
22 violence.

23 Q. How about their implementation of direct supervision or
24 classification policies?

25 A. Well, the lack of supervision is certainly not consistent

1 with the principals of direct supervision. It's not really
2 consistent with any principals of supervision in that you have
3 to be able to have supervision of one type or another, and
4 they pretty much don't.

5 And classification is an issue. As we talk about in our
6 reports, they use gang pods. They have one gang in one unit
7 and another gang in another unit, and then I think there's one
8 unit that is a little bit of a mix. They have inmate
9 committees, as they're called, who essentially decide if
10 somebody isn't welcome in the unit, and then they're moved.
11 They have security staff moving people without consulting
12 classification.

13 They have space limitations, particularly when COVID was
14 surging, that creates difficulties. So the end result is that
15 classification isn't always by an objective tool as it's
16 supposed to be. All of these things impact the placement of
17 individuals.

18 Q. When you say "inmate committees, as they are called,"
19 what do you mean by that?

20 A. This is a term that we learned from the administrative
21 lieutenant. She produced a document some months back that
22 listed the difficult inmates, detainees, and had notation as
23 to why they were considered difficult, and a number of
24 detainees were identified as being on the inmate committees.
25 So that was the first I had heard that term, and essentially

1 it is detainees who essentially control the unit and decide
2 who can be there and who can't. And if they don't want
3 someone there, they'll set up assaults or harassment until
4 they leave.

5 Q. So how does this kind of interference affect the
6 classification system as it was written?

7 A. Well, the settlement agreement requires the use of an
8 objective classification tool, and that should determine
9 placement of the detainee. But when you have an inmate
10 committee that is overriding that, they're not being placed
11 based on the objective tool. It's something else.

12 Q. Now, it sounds like you mentioned detainees. Can you
13 talk a little bit about what types of inmates or detainees are
14 housed in the jail, what the different categories are?

15 A. Well, in Hinds County the vast majority of detainees are
16 detainees; they are pretrial. They do have some convicted
17 misdemeanants, but not very many compared to national
18 statistics. And then they have individuals that are within
19 the detainee category; they have individuals who are charged
20 with felonies and then some with misdemeanors. The
21 misdemeanants don't stay near as long, so they're a smaller
22 proportion as well.

23 Q. Is there any intersection between the forensic mental
24 health or civil commitment process and the population in the
25 jail?

1 A. There is. The individuals that have an issue of
2 competency raised in their criminal proceeding will be in the
3 jail. They may be waiting for a state hospital bed for the
4 competency evaluation. They may not. They can also be
5 evaluated outside of the state hospital. So there's some in
6 the jail who are waiting for a competency evaluation, either
7 in the community or in the state hospital. Then they
8 potentially come back, and if they're found competent, their
9 case proceeds. If they're found incompetent, there's a second
10 question of whether they're restorable or not, if their
11 competency is restorable. And that will also usually involve
12 waiting for a state hospital bed.

13 Although the state hospital had set up a restoration
14 program within Hinds County, I don't know if that's still
15 happening. And then if they're found to be incompetent and
16 nonrestorable, then typically they are supposed to move over
17 to the commitment proceeding.

18 Q. So these are people who are potentially civil detainees
19 only?

20 A. That's the way it has seemed to me; that once they're
21 incompetent and nonrestorable, their criminal case is
22 remanded. And I don't know to what extent Mississippi law
23 authorizes them to continue to be held in the jail once their
24 case is remanded.

25 Q. If somebody has a family member who needs civil

1 commitment and they take them to the state system and there
2 are not enough beds, does the sheriff play any role as part of
3 that process?

4 A. Again, that's a question of Mississippi state law. I
5 believe that the state law authorizes the sheriff to pick up
6 and bring to the proceeding the individual that -- once a
7 commitment proceeding has been filed.

8 Q. Will these people ever be in the custody of the sheriff
9 or the jail?

10 A. I think they can be.

11 Q. You talked a little bit about the monthly reportings.
12 Can we bring up Plaintiff's Exhibit 88? It's not showing on
13 my screen, Plaintiff's Exhibit 88, and there's a binder behind
14 you as well. If you want to look at the binder, it might be a
15 little easier.

16 A. Okay.

17 Q. Do you recognize Plaintiff's Exhibit 88?

18 A. Yes, I do.

19 Q. What is it?

20 A. That is a printout of the spreadsheet we get that
21 includes data points from the incident reports, including the
22 narrative and the supplemental narratives.

23 Q. And with the one you received, is that -- did you say
24 it's on a spreadsheet?

25 A. It's an Excel spreadsheet that is uploaded into the

1 computer, so I don't print it out. I review it on the
2 computer.

3 Q. Why don't you print it out?

4 A. Because it ends up looking like this exhibit.

5 Q. But you do recognize this document?

6 A. Yes.

7 MR. CHENG: Your Honor, we move for the admission of
8 Plaintiff's Exhibit 88.

9 THE COURT: Any objection from the defendant?

10 MR. SHELSON: No, sir.

11 THE COURT: All right. P-88 is received into evidence.
12 It's under seal.

13 (Plaintiff's Exhibit 88 entered.)

14 BY MR. CHENG:

15 Q. Just for the sake of everyone looking at it, if someone
16 were to try to lay out this exhibit on a piece of flooring,
17 how would you put it together so you could actually read it?

18 A. Well, I would refer to the page numbers. But this page
19 has the first six columns, and there's probably about 10 or 12
20 of those pages. And then the next group has the next number
21 of columns, and similarly another 10 or 12 pages and so on
22 until the entire spreadsheet is put together. And then I
23 think this one goes through -- the first groups go through the
24 first half of the month, and then there's a second group that
25 goes through the second half of the month.

1 Q. And the date on the spreadsheet, who puts the date in
2 there?

3 A. That comes from the JMS report. It's programmed to put
4 it in. I think the IT person at the County created the
5 report.

6 Q. And so the report gets generated from other types of
7 entries. Who puts in the entries before it gets reported?

8 A. The officers who are writing those incident reports,
9 officers or supervisors.

10 Q. When you and your team are reviewing incidents, have you
11 been trying to track the number of assaults between inmates?

12 A. Yes.

13 Q. Okay. And what process do you use to track assaults?

14 A. So I reviewed the incident reports, and if there are
15 assaults that are reflected in those reports, I include that
16 on a log that I keep. And then I also review the CID reports,
17 the criminal investigation division reports. I review the
18 immediate notifications. I -- sometimes there are medical
19 transports that suggest that there had been an assault, in
20 which case, I'll ask Dr. Dudley to review the medical records
21 and see if it was reported to medical as an assault, and
22 that's mostly it.

23 Sometimes I will learn of assaults through the file
24 audits or potentially through grievances. So all things I
25 review on a monthly basis anyway, that material gets drawn

1 into that log.

2 Q. Do you or your team members also review the incident
3 reports themselves?

4 A. Yes. Through the spreadsheet and occasionally for
5 whatever reason, we'll ask for the actual report but mostly
6 through the spreadsheet.

7 Q. Why was it necessary for you to create your own list of
8 inmate assaults?

9 A. Well, I started it back in 2018, and there were just so
10 many assaults it was hard to really have a handle on are they
11 going up, are they going down, are they occurring in one unit
12 more than the others, and some of the same individuals
13 involved over and over. So it just was very difficult to keep
14 all of that information sort of in mind and to be able to
15 analyze it.

16 Q. And why have Dr. Dudley look at medical reports when
17 checking assaults?

18 A. Because sometimes -- and I think there's an example in
19 the fifteenth monitoring report. There was a medical
20 transport that was to the hospital to look at a broken jaw,
21 but there was no indication why there was a broken jaw. And
22 actually in this most recent period, there was something
23 similar where there was a medical transport for a broken hand,
24 but no indication of why there was a broken hand. So when Dr.
25 Dudley looks at the medical records, he can see whether the

1 inmate reported to medical that it had been an assault.

2 Q. We have Plaintiff's Exhibit 88. It's sealed, but it is
3 available behind you if you don't mind.

4 A. What was the number?

5 Q. Eighty-eight.

6 A. I thought that was the last --

7 Q. I'm sorry. No. 32. Plaintiff's Exhibit 32, which is
8 also sealed.

9 A. Yes.

10 Q. Do you recognize Plaintiff's Exhibit 32?

11 A. I do.

12 Q. What is that exhibit?

13 A. That's the log that I keep on inmate assaults.

14 Q. And do you rely upon that document as well for helping to
15 form your opinion?

16 A. Yes.

17 MR. CHENG: United States moves to admit Plaintiff's
18 Exhibit 32, which is sealed.

19 THE COURT: Is it -- no, is it -- any objection? It's
20 sealed, but it's not admitted yet. Any objection from the
21 defendant?

22 MR. SHELSON: No objection, Your Honor.

23 THE COURT: All right. PX-32 will be received in
24 evidence.

25 (Plaintiff's Exhibit 32 entered.)

1 BY MR. CHENG:

2 Q. When you're doing your site visit and you're evaluating
3 protection from harm, do you also go through inmate
4 grievances?

5 A. Yes.

6 Q. And when you're looking at grievances, do you assess the
7 response by the staff to the grievances?

8 A. Yes.

9 Q. What's the purpose of doing that?

10 A. Well, the settlement agreement requires a timely and
11 appropriate response to inmate grievances.

12 Q. If we could bring up Plaintiff's Exhibit 27. Before it
13 gets to this exhibit, what is the benefit of doing a timely
14 response to a grievance?

15 A. Well, the benefit to the inmate, of course, is that he
16 gets his complaint addressed. To the staff in the jail as a
17 whole, it enables the jail to address potential inmates or
18 potential problems within the facility that need to be
19 corrected.

20 Q. Does that include violence between inmates?

21 A. It can.

22 Q. Does that include abuse or staff abuse or use of force?

23 A. It can.

24 Q. Does it include physical plant problems that are bad for
25 health or safety?

1 A. Yes.

2 Q. Do you recognize Plaintiff's Exhibit 27?

3 A. Yes.

4 Q. And what happened in this situation?

5 A. You mean what does the detainee say?

6 Q. Sure. What does the detainee complain about?

7 A. That he was stabbed in various locations. His eye socket
8 is cracked. He filled out a protective custody form that was
9 ignored by the officers, "which led up to me almost losing my
10 life. I'm partially blind in my right eye. I can't sleep at
11 night because I'm traumatized. I was brutally beaten by
12 multiple guys. This would never have happened if they would
13 have put me on protective custody like I asked."

14 Q. And then how did the jail respond to this grievance?

15 A. "I understand your complaint, but this is a grievance
16 form. What is your grievance so I direct you to the right
17 person?"

18 Q. Did you have any concerns about how this response was
19 provided?

20 A. Yes. He -- I would have interpreted that grievance to be
21 that the protective custody request was ignored, and that
22 should have been investigated and corrected.

23 Q. When your team was assessing the grievance process, did
24 you find other cases that were like this one where the
25 grievance response was not appropriate?

1 A. Yes.

2 Q. And did you make any recommendations or findings about
3 that issue?

4 A. We have reported repeatedly that a number of grievances
5 are denied as not being grievances as well as a number of
6 responses that really don't address the problem. In some
7 instances they say, you know, I'll look into it, but that
8 doesn't tell you that there's been an appropriate response.

9 So we've mentioned that repeatedly in reports. I believe
10 it's been mentioned repeatedly in the jail's quality assurance
11 reports as well.

12 Q. When you say "repeatedly," about how far back have you
13 been complaining about the grievance process?

14 A. I don't recall when the electronic system came into
15 place. That's been quite some time, and I would say it's from
16 as long ago as when that started.

17 Q. What risks of harm, if any, can result from improperly
18 handled grievances of this sort?

19 MR. SHELSON: Objection. Calls for speculation.

20 THE COURT: Objection overruled.

21 A. Well, such as in this case, if there's an issue of
22 protective custody requests being ignored, the potential is
23 just somebody doesn't get protective custody and that issue
24 isn't addressed. And the potential harm is what's described
25 here, an inmate assault.

1 MR. CHENG: Your Honor, we move to admit Plaintiff's
2 Exhibit 27.

3 THE COURT: Any objection from the defendant?

4 MR. SHELSON: No, sir.

5 THE COURT: PX-27 will be received in evidence.

6 (Plaintiff's Exhibit 27 entered.)

7 MR. CHENG: We can now introduce Plaintiff's
8 Exhibit 31.

9 BY MR. CHENG:

10 Q. Do you recognize Plaintiff's Exhibit 31?

11 A. It's an incident report from October 2nd, 2021.

12 Q. And what happened in this situation?

13 A. The jail received a call from a detainee's wife saying
14 that her husband needed to be placed on protective custody,
15 and the jail captain at the time said don't do anything until
16 I get there. And then it looks like the attorney had also
17 called and stated -- oh, sometime after that initial call, the
18 attorney called and said that his client had been attacked
19 subsequent to the wife calling and asking that the husband be
20 put in protective custody. And so then the officers went
21 and -- to the unit and found the detainee with blood on his
22 face and clothes and had been attacked to the point where he
23 needed to go to the hospital.

24 Q. And were there any concerns about this situation?

25 A. Yes. You know, if someone -- a request for protective

1 custody should be addressed as promptly as possible because of
2 the potential for an assault.

3 Q. So we talked earlier about self-assessment and systems to
4 identify patterns or trends. Does the jail have in place any
5 type of self-assessment, early warning, other types of systems
6 to pick up on patterns or problems with their jails?

7 A. Well, starting -- oops, starting in, I think it was
8 summer of 2020, they have a quality assurance officer who
9 reviews different data points and creates a quality assurance
10 report. So that's -- it's not exactly a -- it doesn't present
11 in terms of a data report, but it's a narrative that covers
12 some of the issues in the jail.

13 Q. Does it get down to sort of the microlevel, trying to
14 detect if there's a problem with a staffer or particular
15 inmates?

16 A. I would say occasionally it addresses such an incident,
17 but mostly it's at a higher level of assessment.

18 Q. Does the consent decree require defendants to have
19 systems to identify potential problem inmates or detainees at
20 a microlevel?

21 A. Yes.

22 Q. And what progress, if any, have they made in that area?

23 A. We don't really receive any compilation of data that
24 reflects that.

25 MR. CHENG: Your Honor, I would move to admit

1 Plaintiff's Exhibit 31.

2 THE COURT: Any objection?

3 MR. SHELSON: No, sir.

4 THE COURT: P-31 will be received into evidence.

5 (Plaintiff's Exhibit 31 entered.)

6 BY MR. CHENG:

7 Q. By the way, do you know if those two documents 27 and 31,
8 are they the same inmate?

9 A. I do not recall the inmate that wrote the grievance. I
10 do know the inmate that was involved in the incident report.
11 They are potentially the same.

12 Q. Based on your most recent assessments, what patterns or
13 trends can you report about the level of violence in the jail?

14 A. I would say it's a high level of violence.

15 Q. And the protection from harm provisions, do they include
16 requirements for trying to improve retention and staffing?

17 A. Yes.

18 Q. Did they ever adopt the retention bonuses required by the
19 consent decree or court order?

20 A. No.

21 Q. Did they ever adopt a salary ladder or career ladder?

22 A. No.

23 Q. Did they ever adopt salary step increases?

24 A. No.

25 Q. Did they ever empower the jail administrator enough to

1 let them run the jail professionally?

2 A. No.

3 Q. Have you ever reviewed Mr. Shaw's curriculum vitae?

4 A. Yes.

5 Q. In your team's opinion or in your view, does Mr. Shaw
6 meet the qualification requirements of the consent decree,
7 paragraph 38?

8 A. I'm remembering paragraph 46, but I know there's a
9 requirement that the individual have five years' experience in
10 operating a major jail, I believe is the wording.

11 Q. And why is Mr. Shaw not able to meet that requirement?

12 MR. SHELSON: Objection. No foundation.

13 THE COURT: Objection overruled.

14 A. In reviewing his resume, it appears that all of his
15 experience, professional experience is in running prisons and
16 not jails.

17 BY MR. CHENG:

18 Q. If you could bring up Exhibit 4, Defendants' Exhibit 4.
19 Do you recognize Defendants' Exhibit 4?

20 A. Yes.

21 Q. And is this the Matt Rivera report you mentioned earlier?

22 A. Yes.

23 Q. Do you generally agree with what Mr. Rivera recommended
24 or found?

25 A. Yes.

1 Q. Do you think that recent promises to raise salaries alone
2 will lead to adequate staffing and supervision?

3 A. No.

4 Q. Did you tell the defendants that?

5 A. I believe I have over time.

6 Q. And why did you think it was not enough to raise salaries
7 alone?

8 A. Well, particularly the retention issue is related to many
9 things, not just pay, as this has been discussed over the
10 years. Exit interviews that have been done by Doris Coleman,
11 the HR person at Hinds County, have indicated that departing
12 employees have given a number of reasons for leaving,
13 including safety, including what they considered arbitrary
14 treatment, including other people less experienced, less
15 knowledgeable people being promoted over them, a variety of
16 complaints regarding why people are leaving.

17 Salary is an issue, but there's a lot of other issues,
18 and not just -- and the salary that has been addressed has
19 been a starting salary, so without a career ladder, that also
20 doesn't contribute to retention.

21 Q. And did Mr. Rivera make a number of recommendations of
22 how to provide short, intermediate, and long-term improvements
23 to retention and staffing?

24 A. He did.

25 Q. About how many recommendations did he make?

1 A. I don't know that I counted, but there's probably -- he
2 had different areas of concern, and I would say in each area
3 there were probably -- I don't know -- ten recommendations in
4 each of those time categories.

5 MR. CHENG: At this time I'd move to admit Defense
6 Exhibit 4, but it's possible it's already been admitted.

7 All right. It's already been admitted, very good.

8 BY MR. CHENG:

9 Q. Did the defendants ever provide a plan with reasonable
10 likelihood of success outside of Mr. Rivera's plan?

11 A. I don't think we've seen any plan regarding --
12 particularly regarding retention. I think there was a short,
13 one-page document that was created by the recruitment officer
14 that talked about recruitment activities, but it was not what
15 I would call a recruitment and retention plan.

16 Q. And you mentioned how Ms. Bryan worked on this to get
17 this out. Can you describe what Ms. Bryan and Mr. Rivera were
18 doing to try to complete this process?

19 A. I know they had conversations about the direction. I
20 don't know how extensive those conversations were, and then
21 Mr. Rivera provided the draft document to Major Bryan. I
22 think she provided feedback. She then requested I look at it
23 and asked if I could share it with Mr. Parrish as well, and we
24 both had a few comments.

25 Q. I think we've heard a number of times this week about a

1 5 percent pay increase.

2 A. Yes.

3 Q. Does that sound familiar?

4 A. Yes.

5 Q. Besides the 5 percent pay increase, were there other
6 financial efforts that Mr. Rivera recommended that would help
7 with recruitment and retention?

8 A. I don't recall to what extent they were in the report. I
9 know that Major Bryan had suggested, and I think it was
10 conveyed to Mr. Rivera as well, that there be -- that the
11 payroll be biweekly and that there be direct deposit. I think
12 they also recommended -- or she recommended a uniform
13 allowance I believe as well as the bigger incentives that
14 we've talked about with the career ladder and such.

15 Q. How about a cost of living adjustment?

16 A. Yes, I know that's in Mr. Rivera's report.

17 Q. Has the County's ability to keep up with inflation been
18 an issue in the past with retention?

19 MR. SHELSON: Objection. No foundation. Leading.

20 THE COURT: Could you rephrase your question, please?

21 BY MR. CHENG:

22 Q. Did Mr. Rivera address cost of living issues in his
23 report?

24 A. Yes.

25 Q. And what did he find?

1 A. My recollection is that he recommended that there be cost
2 of living increases for the obvious reason that if you don't
3 keep up with inflation, your real income is going down.

4 Q. And did he also address issues with technology or the way
5 the recruitment office actually works?

6 A. Yes, quite a bit.

7 Q. And what did he say?

8 A. He recommended that the County use much -- have a much
9 higher use of technology in the application process such as
10 web-based portals and, you know, being able to submit an
11 application not just on paper, being able to track applicants,
12 and so on.

13 Q. Right now do you have to submit a paper application to
14 get a job at the jail?

15 A. That's what I understand.

16 Q. Did he have high-speed internet access for the
17 recruitment staff?

18 A. No, I believe not.

19 Q. Did your team ever recommend at hearings that they should
20 do some more to be more technologically savvy with
21 recruitment?

22 A. Yes, I think we did. I don't remember to what extent
23 that came from Mr. Rivera or from us but certainly using
24 social media and other web-based resources.

25 Q. And over the years, have they made much inroads in terms

1 of adopting modern technology for the recruitment process?

2 A. I don't believe so.

3 Q. Did Mr. Rivera also make some recommendations about
4 leadership and culture?

5 A. Yes.

6 Q. What types of recommendations did he make?

7 A. My recollection is that he said that sort of the --
8 creating a positive culture within the jail needed to start at
9 the top, and in that regard, it was important that there be
10 sort of a clear understanding of the mission and principles of
11 the organization of those, including treating people fairly
12 and so on.

13 Q. Who is Marlow --

14 A. Brennan.

15 Q. Who is Marlow Brennan?

16 A. He was the IAD investigator.

17 Q. And did your team ever work with him?

18 A. Yes.

19 Q. And how was the experience in terms of working with him?

20 A. Mr. Parrish was the main contact with Mr. Brennan. I
21 think it was mainly positive.

22 Q. When you say "he was the investigator," what were his
23 duties?

24 A. He was to investigate any allegations of misconduct by
25 staff, and as part of that, he reviewed all of the incident

1 reports, not just the ones that were referred to him, to
2 determine if misconduct of staff was involved and then
3 investigated it.

4 Q. And where is he now?

5 A. He's no longer with the sheriff's office.

6 MR. CHENG: If we could bring up Plaintiff's
7 Exhibit 14.

8 BY MR. CHENG:

9 Q. Do you recognize Plaintiff's Exhibit 14?

10 A. Yes, I've seen this -- I have seen this before.

11 MR. CHENG: Your Honor, we move to admit Plaintiff's
12 Exhibit 14.

13 THE COURT: Any objection from the defendant?

14 MR. SHELSON: No, Your Honor.

15 THE COURT: Okay. P-14 will be received into evidence.

16 (Plaintiff's Exhibit 14 entered.)

17 BY MR. CHENG:

18 Q. We talked a lot about their ability to detect their own
19 problems. Have your team members ever identified issues with
20 the way they do investigations?

21 A. Yes.

22 Q. And what types of problems have they found?

23 A. Well, they're variable. The -- so, for example, with the
24 criminal investigation, they're definitely hampered by the
25 fact that very few cameras function, are operable, so when

1 they know an incident has occurred, at RDC anyway, they're
2 unable to review video footage to get a better handle on what
3 happened, unless per chance it happened in front of one of the
4 functioning cameras.

5 I would also say that the investigations, again, on the
6 CID side, have improved over the years, but they're still not
7 very thorough. And on the IAD side, we actually don't -- it's
8 very difficult for us to track the reports on the IAD side,
9 because we sometimes don't get any report and sometimes get it
10 very, very late. And it's hard to track what's happening from
11 a potential complaint or use of force to how it was resolved.

12 Q. Do these problems with getting IAD or CID reports include
13 trying to get reports for deaths?

14 A. Yes. I would say we typically do get CID reports. The
15 IAD reports have been much harder to get in a timely fashion.

16 Q. What concerns, if any, does that raise in terms of the
17 safety of the jail?

18 A. Well, certainly our not getting the reports impacts our
19 ability to provide direct assistance and to inform the Court
20 in that area for proper response. To the extent that staff
21 who need to see those reports don't get them, it certainly
22 impacts the ability for that staff to take appropriate
23 corrective or remedial action.

24 Q. When you say "corrective or remedial action," does that
25 include holding staff accountable or inmates accountable if

1 they do something wrong?

2 A. Yes.

3 Q. Mr. Brennan's letter mentioned something about needing
4 three people to do the job. Does your team have any opinion
5 about or did you form any opinion or make any recommendations
6 about the number of investigators?

7 A. I think that we recommended additional assistance on the
8 CID side. I would have to ask Mr. Parrish on the IAD side.

9 Q. So we've talked in abstract about tracking grievances or
10 tracking incident reports. When your team assesses that
11 issue, sort of what is the model for how that process should
12 really work?

13 A. Well, so like with grievances, the relevant information
14 should be included in this spreadsheet, and it is. They do
15 keep a spreadsheet, although a lot of that has to be done
16 manually, and then the coordinator, the grievance coordinator
17 should be looking to see that grievances have a response and
18 that that response is timely. And if it's not, to talk
19 initially with the assigned individual to respond to the
20 grievance.

21 If that still doesn't get a response, then that should go
22 up to a higher level. There also should be an audit, and it's
23 set out in the grievance policy. I think it recommends an
24 audit of 10 percent of the grievances on a quarterly basis, so
25 that those kind of problems can be identified. And it

1 includes not only is there a response, but is the response
2 appropriate.

3 Q. Are those audits occurring?

4 A. No.

5 Q. Are they required to also track trends or graph data?

6 A. The -- ideally the grievance would be able to be sorted
7 by area and by officer, by type.

8 Q. When you say "area," do you mean like housing area?

9 A. Yeah, the location and by type. The system that is used
10 to file the grievances and track the grievances does not
11 allow -- it does not pull that information into the
12 spreadsheet.

13 Q. Is that system the JMS system?

14 A. No, it's the Securus System.

15 Q. Let me move on to the reporting provisions of the consent
16 decree. There are several about the reporting and
17 investigation and the forms that are used.

18 Have the defendants implemented the consent decree
19 provisions that are reasonably necessary to protect detainees
20 from unnecessary or excessive use of force by staff?

21 A. No.

22 Q. If not, then what serious risk, if any, does this pose to
23 detainees?

24 A. Detainees can be injured by the excessive use of force.

25 Q. Does the policy that you worked on on use of force forbid

1 using force to compel compliance?

2 A. Yes.

3 Q. And you heard testimony earlier this week about an inmate
4 who was Tasered while face down?

5 A. Yes.

6 Q. What's wrong with Tasering him under the policy that was
7 approved by the County?

8 A. Well, the policy also includes sort of the incremental
9 use of force, so that if compliance were -- the action that's
10 being desired can be accomplished by a lower level of force,
11 then that lower level of force should be used. And in the
12 case that was discussed, there were several officers in the
13 area that could have ensured that his arms were out and behind
14 his back to be cuffed.

15 Q. Would that particular provision about using force on
16 people who refuse to obey orders, does that have any
17 implication for detainees with mental health issues?

18 A. Yes.

19 Q. Why?

20 A. Well, a couple of things. The settlement agreement
21 requires that the mental health provider be involved in the
22 decision to use force and certainly an evaluation of it
23 afterwards. But the issue is a lot of -- I mean, detainees
24 with mental health issues may be acting out because of their
25 mental illness and not because of an intention to create a

1 problem. And they also can have mental health impact trauma,
2 sort of re-creating the trauma by the use of force on them.

3 Q. We talked a little bit earlier about tracking incidents.
4 With tracking use of force, are there similar issues with the
5 data systems used for tracking use of force as there are with
6 incident reports?

7 A. Yeah. It's actually the same system. The issue that has
8 made it difficult to use the database to track force is a
9 couple of things. One is that the type of incident that is
10 put into the incident report doesn't necessarily indicate that
11 use of force. It might be failure to comply, and then you
12 read the incident report and you see that it was a use of
13 force.

14 The other issue is that there's actually a box in the JMS
15 system when you do the incident report that asks if force has
16 been used. And again -- and if that box is checked, then
17 additional information is required on that use of force. In
18 the past that box has rarely been checked, even when force has
19 been used. I believe there's a plan to -- for the IT person
20 to make that a mandatory field. I don't know if that's
21 happened.

22 Q. Under the approved policies were Tasers allowed to be
23 distributed to staff inside the jail?

24 A. The use-of-force policy does not -- it talks about
25 electronic devices, but it doesn't authorize or not authorize

1 them. They would be considered fairly high on the incremental
2 list of force that can be used.

3 Q. Does the policy require training before somebody can
4 bring a weapon like that into the facility?

5 A. Yes.

6 Q. Does it require inventory controls or tracking of those
7 types of devices?

8 A. Yes.

9 Q. Do they have any of those types of tracking systems for
10 the Tasers in the jail?

11 A. I don't know that they have instituted an inventory
12 system for the Tasers. They did have one for the shotguns.

13 Q. So these types of data and tracking systems, if someone
14 doesn't have these systems, what risk, if any, does it pose
15 for the safety of inmates or staff?

16 A. The potential is that those devices could be used and not
17 reported in an incident report, in such that the supervisors
18 can know that they've been used and can evaluate whether they
19 were properly used.

20 Q. How about, like, the data systems for tracking trends in
21 incident reports or grievances or use-of-force reports, if the
22 jail doesn't have these type of systems for tracking trends,
23 what risk, if any, does that pose to the safety of detainees?

24 A. Well, again, if they're not evaluating that, they can't
25 address any problems that those data systems might disclose,

1 including problems that present a risk to inmates.

2 Q. Although this is technically still part of the protection
3 of harm and use-of-force issue, I'm going to start talking a
4 little bit about physical plant conditions. Have the
5 defendants implemented the consent decree provisions requiring
6 them to provide detainees with safe and sanitary physical
7 shelter and living conditions?

8 A. No.

9 Q. Does this have any impact on the health or safety of
10 inmates?

11 A. Yes.

12 Q. And how so?

13 A. Well, there are -- certainly in A-Pod there are still
14 doors that don't lock, the HVAC system doesn't work, and I
15 believe there's plumbing issues and electrical issues. All of
16 which -- particularly the cell doors not locking when there's
17 no supervision in the units, that presents a tremendous risk
18 to inmates, and there's certainly problems in the other areas
19 as well. It has been talked about. C-Pod has no fire alarm
20 system. B-Pod has no -- does not yet have a fire alarm
21 system. There's at least one incident report from January
22 that talks about the doors in B-Pod not functioning, whereas
23 those were supposed to be repaired.

24 And the January quality assurance report had some really
25 troubling information about the cleanliness on the unit where

1 most of the individuals with severe mental illness are housed.

2 Q. What types of issues are on that unit?

3 A. What she described in the January report was that there
4 were conditions regarding the cleanliness of the facility and
5 the inmates and the detainees, including two detainees that
6 were covered in feces and had had serious weight loss and were
7 covered in sores, such that one of them had to be transferred
8 to the hospital for treatment.

9 Q. What is the weight loss issue?

10 A. I believe that what was described in the report is
11 that -- two things. Major Bryan had learned that the staff
12 were providing the food to the inmates by just wheeling the
13 carts in, and the other inmates were distributing the food.
14 And that is not supposed to happen, because, again, the inmate
15 committees or the pod boss, whatever they're called, can
16 withhold the food from some people.

17 She had corrected that, but apparently that has fallen
18 back. And one of the issues is that the inmates distributing
19 the food on that particular unit were not giving food to some
20 of the inmates. And then there was also reference in the QA
21 report that there was in particular one inmate who was taking
22 people's food from them.

23 Q. When you say these other inmates whose food was taken
24 away, were they inmates with serious mental illness?

25 A. According to the QA report, yes.

1 Q. That QA report, what date was that?

2 A. This was the January report. I don't --

3 Q. Was this after or before your tour?

4 A. We received it after the tour.

5 THE COURT: I just want to be clear. January 2022?

6 THE WITNESS: Yes, Your Honor.

7 THE COURT: Okay.

8 BY MR. CHENG:

9 Q. And were the renovations for the physical plant completed
10 according to this QA report?

11 A. No. It said that the renovations in B-Pod have been
12 halted, and there's no timeline for completing them.

13 Q. What type of renovations in B-Pod still need to be
14 completed?

15 A. Quite a few. There are -- I think there's an officer's
16 station that's in the process of being built in B3, not in the
17 other pods or the other units. The fire alarm system as I
18 mentioned, and I think there are still a number of doors that
19 don't function, including the door into B-Pod from the great
20 hall.

21 Q. Were there actually any fires --

22 THE COURT: Hold on one second, Mr. Cheng.

23 We're going to get you some water. I'm sorry.

24 MR. CHENG: Thank you.

25 BY MR. CHENG:

1 Q. Have there actually been any fires during this last
2 quality assurance review period?

3 A. Yes, I don't recall the number.

4 Q. Have there been continuing staffing or supervision
5 issues?

6 A. Yes. She described -- the report describes that, when I
7 mentioned earlier, there was one weekend when there were only
8 three officers covering all the pods. And I believe she
9 continued to mention problems with the observation logs not
10 being accurate and with -- I believe she mentioned in this
11 report, I know it's been in prior reports, where the officers
12 are frequently sitting around in the control room instead of
13 overseeing the units.

14 Q. We've heard from various people that they do hire new
15 people in their incoming classes. Have there been any issues
16 with the recruitment of new personnel, according to this
17 latest QA review?

18 A. I think there was a question of whether appropriate
19 individuals are being recruited and hired.

20 Q. When people get recruited, do they ever quit before they
21 complete the program?

22 A. Yes.

23 Q. Does that happen even today?

24 A. Yes.

25 Q. And even after someone starts working, do they lose

1 people fairly early in the process as well once they start
2 working in the jail?

3 A. Yes.

4 Q. According to the latest quality assurance review, have
5 there been any issues with getting County approvals for
6 necessary reforms in this case?

7 A. Yes. I think the QA report includes that they were
8 trying to get furnishings for the mental health unit, and they
9 were not able to just go out and buy furnishings. They had to
10 get them from surplus furniture in the County, and so they
11 did. They selected the surplus furniture, and then they had
12 to submit a purchase order to obtain that furniture. And
13 that, according to the report, has been denied.

14 And upon inquiry, the QA officer was told that the
15 sheriff's office would have to wait on any items requested for
16 detention services.

17 Q. All right. Let me finish up a little bit on the physical
18 plant issue. Does the jail provide fire safety inspection
19 reports to your team?

20 A. Yes. Mr. Parrish handles that primarily.

21 Q. And who handles the fire safety side for the County?

22 A. For the sheriff's office, it's Mioka Laster.

23 Q. Does the state fire marshal do regular inspections of the
24 jail?

25 A. Not that we've seen. There have been some, but I

1 wouldn't call them regular.

2 Q. We talked earlier about your list of assaults. I did
3 want to bring up the case of MR, who died.

4 A. Yes.

5 Q. There was some discussion about it being labeled a
6 medical report injury. Do you recall that?

7 A. I do.

8 Q. What issue is raised with that type of a category?

9 A. Well, that appeared to suggest that it was -- the death
10 was not a result of the assault but rather some medical
11 episode that happened after the assault.

12 Q. So if you try to categorize that incident just on the JMS
13 label, would that have any affect on the accuracy of the
14 reporting of the incident?

15 A. Well, if you tried to run a report from the JMS that
16 pulled all inmate assaults, it would not pick up that
17 incident.

18 Q. The supervisors in the jail, when they are doing their
19 own self-assessment, do they need to go look beneath the
20 surface reporting to assess what happened with incidents?

21 A. Yes, and certainly reading the incident reports at a
22 minimum and the supplements. But for a serious incident,
23 reviewing camera footage, *et cetera*.

24 Q. Does the QA report that came in January also address the
25 Prison Rape Elimination Act, P-R-E-A, PREA issues?

1 A. I believe so.

2 Q. Have you assessed the PREA compliance as well when you're
3 doing your site visit?

4 A. Yes.

5 Q. And how do you do that?

6 A. Well, if there are PREA reports, I review the PREA
7 reports. I ask the PREA coordinator about any inmate
8 education activities or staff training activities. I look for
9 posters in the units, and I look at any utilization of
10 follow-up services after a PREA complaint. And Dr. Dudley
11 communicates with the medical staff -- medical and mental
12 health staff about PREA issues.

13 Q. So based upon your most recent reviews, have the
14 defendants implemented the consent decree provisions requiring
15 them to protect detainees from sexual abuse?

16 A. Not at this time, no.

17 Q. What harm or risk of harm does this pose for detainees?

18 A. They can potentially be subjected to sexual assault
19 without -- without remedial measures and education and
20 training, such that staff are aware and the inmates are aware
21 of how to address those issues.

22 Q. And when you were doing your review, have you found
23 incidents that weren't properly followed up on under PREA?

24 A. I have. Most -- I would say during most site visits, I
25 see some incident reports and some grievances that involve

1 PREA issue that have not been referred to the PREA officer.

2 Q. You talked earlier about the difference between CID
3 versus IAD. What is that difference?

4 A. CID is intended to investigate criminal activity,
5 typically involving an inmate that's being investigated. And
6 IAD involves investigating of staff persons regarding
7 potentially criminal activity, but also violations of policy
8 and procedure.

9 Q. So out of these processes, can the sanctions be
10 administrative or criminal?

11 A. They could be either.

12 Q. So if there's a PREA allegation, which channel should it
13 be funneled to?

14 A. If it involves an officer, it would typically go to IAD.
15 If it involves inmate on inmate, it would typically go to CID.

16 Q. And where does the PREA officer fit in that process?

17 A. The PREA officer should really be involved in the
18 investigation and do her own inquiry as to what happened and
19 then make the referral and then get the information back from
20 either CID or IAD. And it would be her responsibility, unlike
21 CID or IAD, to ensure that the detainee's mental health issues
22 related to the PREA incident are addressed and their comfort
23 level and their safety in the facility.

24 Q. I think you mentioned "this should be the way it works,"
25 but what is actually happening?

1 A. Well, it has really changed over time. And most
2 recently, I'll certainly be looking at the next site visit in
3 terms of where they're at. But the PREA coordinator had been
4 out since I believe mid-July through sometime in December, I
5 think, or early January. And during that time, there were
6 PREA incidents that weren't investigated. There was no
7 education of inmates being done.

8 It was reported that there was some training on PREA in
9 the cadet academy. We haven't received the curriculum yet to
10 confirm that. So in this time period, there has not been much
11 PREA compliance.

12 Q. Have you requested the training curriculum for the cadet
13 academy?

14 A. Mr. Parrish has.

15 Q. And that curriculum, is that for the entire basic
16 academy?

17 A. I believe so.

18 Q. Have they ever produced such a training curriculum?

19 A. Not pursuant to the recent request.

20 Q. Have the defendants implemented the consent decree
21 provisions on grievances?

22 A. They're relatively close on grievances, but as has been
23 mentioned, there are still an unacceptable number that receive
24 no response and receive late responses, a number that are
25 denied as not being grievances, and a number that are accepted

1 as a grievance but don't have an appropriate response.

2 Q. What impact, if any, does this have on the safety of
3 detainees?

4 A. Well, if grievances aren't responded to, it potentially
5 affects the safety of that individual who submitted that
6 grievance. But it also -- it makes it more difficult for the
7 facility to make improvements in response to those grievances.

8 Q. And based on your most recent review, have the defendants
9 implemented the consent decree provisions on segregation?

10 A. No.

11 Q. And in what way have they failed to meet the requirements
12 for segregation?

13 A. Well, a lot of those are mental health requirements, and
14 I think Dr. Dudley addressed them to a great extent. But
15 the -- it requires the involvement of the mental health staff
16 before placing an individual in segregation. It requires the
17 involvement of the mental health staff in disciplinary
18 proceedings that result in segregation. And it requires
19 well-being checks, I believe at 30-minute intervals, which are
20 not being done. And I think there are others that I'm not
21 remembering right now.

22 Q. And these are things that are or are not being done?

23 A. Are not being done.

24 Q. And what impact does this have on the detainees?

25 A. Particularly the individuals with mental illness end up

1 largely being housed in segregation and it can result in
2 decompensation of their mental status.

3 Q. Does the consent decree -- let's move on to another area.
4 Does the consent decree require defendants to place juvenile
5 charged as adults at Henley-Young?

6 A. Not at Henley-Young, but not in a facility with adult
7 individuals.

8 Q. So whatever facility they use, are there requirements for
9 what that facility must be able to provide the juveniles?

10 A. Yes.

11 Q. Have the defendants implemented the consent decree
12 provisions regarding juveniles charged as adults?

13 A. No, I rely on Mr. Moeser for that area of the report, but
14 I know from his submissions that they are not in compliance.

15 Q. And why are they not in compliance?

16 MR. SHELSON: Objection. She's not qualified to
17 address this. She just admitted it.

18 THE COURT: Objection overruled. She said she relies
19 on Mr. Moeser to come up with her conclusions. She said
20 that's his part of the report. That's part of what he does in
21 reporting to her; right?

22 MR. SHELSON: Right. And if she's just repeating what
23 Mr. Moeser said, then I object to hearsay.

24 THE COURT: Objection overruled.

25 A. So the issues with respect to the JCAs and Henley-Young

1 are not all that different from many of the issues at RDC: A
2 lack of staffing, lack of supervision, lack of programming,
3 some physical plant issues.

4 BY MR. CHENG:

5 Q. What harm, if any, does the failure to comply with the
6 provisions have on these juveniles?

7 A. It potentially places the juveniles at risk of harm,
8 certainly physical harm, but also institutionalization,
9 decompensation, impact on their mental health.

10 Q. The next area I'd like to talk about is unlawful
11 detention.

12 MR. CHENG: I'm going to go through it in a little bit
13 more detail, Your Honor, so I don't know if this is a good
14 time --

15 THE COURT: This is a good time for us to take our
16 afternoon break. It's about 3:26. We'll take about
17 20 minutes.

18 Ms. Simpson, you may step down.

19 THE WITNESS: Thank you.

20 THE COURT: We're in recess.

21 (A brief recess was taken.)

22 THE COURT: You may be seated.

23 Ms. Simpson, you can return to the stand.

24 THE WITNESS: Your Honor, I forgot my reading glasses.

25 THE COURT: Okay. You can step down.

1 MR. CHENG: Can you hear me?

2 THE WITNESS: Yes.

3 BY MR. CHENG:

4 Q. All right. Thank you. Ms. Simpson, does the consent
5 decree have provisions requiring them to prevent the unlawful
6 detention of detainees?

7 A. Yes.

8 Q. Can you summarize what that requires?

9 A. It requires that the appropriate paperwork be provided at
10 the time of booking that warrants the booking and that people
11 be released the day they're entitled to release. And it also
12 has a number of provisions related to fines and fees and the
13 appropriate paperwork for fines and fees.

14 Q. And when you say "the appropriate paperwork," why does
15 paperwork matter for these types of issues?

16 A. In order to have clear documentation that taking the
17 person into custody is warranted.

18 Q. And do you review that documentation for your site
19 visits?

20 A. Yes.

21 Q. Historically, did this jail have any issues with people
22 being unlawfully detained?

23 A. Yes.

24 Q. Now, what types of problems did they have?

25 A. They had people that were booked in without an arrest

1 report that might have been promised later. They had issues
2 of holding people based on a hold that they had no paperwork
3 to support. The fines and fees issue --

4 THE COURT: Is there an objection?

5 MR. SHELSON: Yes, sir. The objection is that it's not
6 established that the historical period she's talking about is
7 the monitoring period. Because it's outside the monitoring
8 period, there's no foundation.

9 THE COURT: Okay. Thank you.

10 Yes. Confine your -- well, for historical purposes,
11 you can go beyond that, but we need to know specifically -- we
12 need to know what your testimony is about what has happened
13 since the consent decree has been in place.

14 MR. CHENG: So if she could finish then just on the
15 historical piece, at least.

16 BY MR. CHENG:

17 Q. And if proper, try to keep it within the period when
18 you're actually on the case.

19 A. So these were things that we were seeing at the beginning
20 of the monitoring period.

21 Q. And you mentioned fines and fees issues. What were
22 those?

23 A. That a number of people were being held on fines and fees
24 without the underlying finding by the Court that the failure
25 to pay was willful.

1 Q. Were there also issues with people being in the jail for
2 long periods of time without being unindicted?

3 A. Yes, and there still is.

4 Q. And did any of these issues raise concerns with other
5 stakeholders besides the defendants themselves?

6 A. I would say most of the stakeholders in the criminal
7 justice system, such as the circuit court, the public
8 defender, and the district attorney are concerned about the
9 length of time before indictment.

10 Q. Are these stakeholders included in the CJCC?

11 A. Yes.

12 Q. Would addressing unlawful detention of detainees be
13 something that should be brought up with the CJCC?

14 A. If there are system issues, yes.

15 Q. If we could bring up Plaintiff's Exhibit 19. It's
16 sealed, but I believe you have it on the binder.

17 A. Yes.

18 Q. Do you recognize Plaintiff's Exhibit 19?

19 A. Yes.

20 Q. And what is that document?

21 A. This is the list that they keep to track indicted and
22 unindicted individuals in the jail.

23 Q. And when you talked earlier about the numbers of people
24 who are in the jail who were unindicted, is this one of the
25 documents you relied upon to form your opinion?

1 A. Yes.

2 MR. CHENG: Your Honor, I move for the admission of
3 Plaintiff's Exhibit 19.

4 THE COURT: What says the defendant?

5 MR. SHELSON: No objection, Your Honor.

6 THE COURT: Okay. P-19 will be received in evidence
7 and it's under seal.

8 (Plaintiff's Exhibit 19 entered.)

9 BY MR. CHENG:

10 Q. So when you look at these types of lists, you know, what
11 conclusions, if any, have you drawn about sort of length of
12 stay of detainees in the jail?

13 A. Well, the -- you can compute the average length of stay
14 with a particular formula. And I worked with the IT person
15 and the prior -- a prior court liaison, Kenny Lewis, and
16 figured out the length of stay in Hinds County jails. And
17 their length of stay, average length of stay approaches
18 50 days, a little bit less than that. It varies over time.
19 But that's about twice the national average.

20 Q. And what consequence, if any, does it have on their
21 ability to comply with the consent decree?

22 A. Well, having individuals stay in a jail that long on
23 average impacts a lot of things. I mean, it means your
24 population is -- is high, because it's not turning over.
25 People are not being released as one -- as quickly as one

1 would expect them to be. And so the higher your population,
2 the more staff you need to supervise that population.

3 It also has an impact over time, in that the longer
4 individuals who are considered low or moderate risk stay in a
5 jail the more likely their recidivism is. Certainly for
6 people with mental health disabilities, it can result in a
7 decompensation and so.

8 Q. Let's talk a little bit about one particular issue, the
9 issue of people who are overdetailed. During this site visit
10 did you assess the issue of overdetailed?

11 A. Yes. I look for that every site visit. A lot of times
12 the files I review are randomly selected, but I also look at
13 files where there's, I would say, a red flag, either because
14 of a grievance or a program request or something in a file
15 audit. And so based on that, I identify usually around 25
16 files that I review, usually with -- almost always with
17 Sergeant Tillman. So I sit down with her, and if in-person we
18 go through the paper files in the JMS. If remote, she goes
19 through those paper files and looks things up on the JMS.

20 So I did that on this visit and located six people that
21 appeared to have been overdetailed.

22 Q. When you say "overdetailed," about how much were they
23 overdetailed by?

24 A. The one with the lengthiest overdetailed was 16 days.
25 At the last site visit, there was someone who had been

1 overdetained by two months. But this time it was -- 16 days
2 was the max.

3 Q. Was there any jail system issues associated with this
4 overdetention issue?

5 A. There are a couple of ways that there are system issues.
6 One is an odd quirk in the JMS system, where if you look up
7 the release date or if you calculate the release date from the
8 date that appears on the jacket screen, you will get a
9 different release date than if you calculate it based on the
10 charge screen. And so there was some decision as to what
11 screen was supposed to be used for that. And in one instance,
12 the wrong screen was used. In the other incident involving
13 that, no matter which screen you looked at, the person was
14 overdetained.

15 Q. And what type of tracking systems do they have to try to
16 monitor their detention dates?

17 A. Well, one of the issues at RDC is that they don't have a
18 tracking system for people completing sentences at RDC. The
19 JMS system does not flag sentence release dates, and they
20 don't have a spreadsheet on that. They -- it was described
21 that they just have to remember who's there on a sentence.
22 And most sentence individuals are there at the work center,
23 but there are some at RDC.

24 So another system issue is that the JMS system, like with
25 sentences, does not flag when people have completed the

1 21 days for probation violations. Probation violators are
2 supposed to go before -- have a probation hearing before
3 21 days, and when that 21 days runs, they're supposed to be
4 released if they haven't had a hearing. And there's no
5 system -- no way in the JMS system that they can flag that.
6 So a number of the overdetentions are in the area of the
7 probation violations.

8 Q. Are there any data quality issues with their systems for
9 tracking overdetentions?

10 A. There are. For example, with the probation violations,
11 if some appear -- according to Sergeant Tillman, some booking
12 clerks will enter the probation violation as a charge, and
13 some will enter it as a hold. And so it's not possible to run
14 one report out of the JMS system showing who all is in on a
15 probation violation. There also have been issues with holds
16 being properly entered and being followed up on in a timely
17 manner, and then there are -- I mean, the individual that was
18 released two months late in the last reporting period, he had
19 a release order come in that just hadn't been entered.

20 Q. Do staffing or policy or training issues have anything to
21 do with these types of problems?

22 A. Yes. You know, the policies don't get to the level of
23 detail of how you enter a particular item, but there had been
24 a booking and release manual that was developed by now a
25 former employee and that had a good level of detail. But

1 that's never actually been implemented, so that would
2 certainly be a good measure to make sure that the entering of
3 information is more accurate and consistent.

4 Q. Why was it never implemented?

5 A. It's unclear. I have not had a clear answer to that.

6 Q. When somebody's overdetained, do they do an incident
7 report?

8 A. It's required by the settlement agreement, but, no.

9 Q. So I guess is that, no, that it's not required by the
10 settlement, or that they don't do the incident reports?

11 A. It is required by the settlement agreement. We have
12 raised it repeatedly that no incident reports are being
13 prepared for overdetention. They still haven't.

14 Q. You talked about sort of the history of the unlawful
15 detention provisions. Are there other problems that have
16 existed historically that continue to this day?

17 A. Well, there's also an issue of mistaken or unauthorized
18 releases that have occurred in the past and continue to occur.

19 Q. What are ins and outs?

20 A. An in-and-out is where somebody is booked in on an arrest
21 report that says, "Hold for X hours and then ROR."

22 Q. What's "ROR"?

23 A. Release on own recognizance.

24 Q. Do you have any concerns about that practice?

25 A. Yes. I would not consider that to be an authorized

1 release.

2 Q. And why is it not an authorized release?

3 A. When somebody is booked into the jail, it typically takes
4 a court order for them to be released. There is such a thing
5 as delegated release authority, and that requires either a
6 state statute or a court rule or a court order that gives the
7 authority to the jail, or sometimes a pretrial agency, to
8 release individuals in certain conditions. But a police
9 officer does not have the authority to authorize the release
10 when somebody is booked.

11 Q. So if an officer is the one who authorizes release, why
12 does anyone care whether a court has to approve it or not?

13 A. Well, one, it's, I would say, a legal requirement. But,
14 two, it really requires the judicial determination that
15 somebody is entitled to release. And they may release
16 somebody that is dangerous. And, you know, it's a court that
17 should be making that decision or a danger to themselves.

18 Q. But if the officer thinks the person can be released on
19 their own recognizance, aren't they still letting the person
20 go free?

21 A. They are letting the person go free.

22 Q. So who gets to make that decision to let them go free?

23 A. Well, what's happening is that the jail is releasing them
24 on the authority of the arresting officer when that officer
25 doesn't have the authority to give that.

1 Q. Does that raise any concerns about the original arrest
2 and booking into the jail?

3 A. No. If there's a valid arrest report, it's a proper
4 booking. It's just not an authorized release.

5 Q. And about how often do you see ins and outs at the jail?

6 A. I don't know. From talking with jail personnel, it's not
7 uncommon, but I can't quantify it.

8 Q. Is this something you intend to assess more carefully in
9 the future?

10 A. Yes.

11 Q. And why do you think it needs to be more carefully
12 assessed?

13 A. Well, partly because the settlement agreement requires
14 the proper paperwork for booking and for release. It also
15 exposes the sheriff's office to liability if they're releasing
16 somebody who they're not authorized to release and something
17 could happen to that individual or someone else.

18 Q. What if the issue is the arrest report is flawed, would
19 that be a potential risk as well for the sheriff?

20 A. I'm sorry. Could you repeat that?

21 Q. If there's a problem with the original arrest report or
22 the police officer's arrest, would that create an issue for
23 the sheriff and the jail as well?

24 A. Yes.

25 Q. Why would there be a problem there, too?

1 A. Well, if the paperwork doesn't support the booking, then
2 that person is being falsely imprisoned.

3 Q. Would that be -- when you say "falsely imprisoned," what
4 do you mean by that?

5 A. That there's not a lawful basis to hold the individual,
6 and the sheriff's office is potentially liable.

7 Q. And are they tracking these detentions that they hold for
8 X hours and then release on their own recognizance?

9 A. Not that I know of. It came to my attention because I
10 was looking at a classification record, and on the front of
11 it, it said, "In and out." And so I questioned the
12 classification supervisor as to what that meant, and she
13 described that. I have not seen any paperwork that lists the
14 ins and outs.

15 Q. This type of issue, is it just a technical issue, or does
16 it have any impact on the rights of detainees?

17 A. Well, certainly people that are overdetained or -- or not
18 properly booked in the first place have -- are harmed by the
19 overdetention or the booking.

20 Q. Do you know what the current population is of the jail?

21 A. I think the total is around 600.

22 Q. Let's talk next about the medical and mental health care
23 provisions. Is there a separate medical or mental health
24 section in the consent decree or stipulated order?

25 A. No, there is not.

1 Q. Are there provisions in other sections?

2 A. Yes.

3 Q. Have the defendants implemented the consent decree
4 provisions regarding medical and mental health care?

5 A. Not all of them, no.

6 Q. Have they provided training for staff assigned to the
7 mental health unit?

8 A. No. Well, they provided the first segment of the
9 training but not the second two segments.

10 Q. Have they opened the mental health unit?

11 A. No.

12 Q. What impact, if any, does inadequate medical -- does
13 inadequate mental health training for staff have on detainees?

14 A. In a number of ways. One is they might not refer
15 detainees to mental health when a referral would be
16 appropriate because they're not recognizing the symptoms.
17 They might perceive behavior as more of a disciplinary issue,
18 and if they don't recognize that that behavior is the result
19 of a mental health issue, they might not properly recognize a
20 suicidal detainee.

21 Q. Does it have any impact on some of the issues you brought
22 up earlier in the quality assurance report about conditions in
23 segregation?

24 A. Yes.

25 Q. And in what way?

1 A. Well, it would suggest that the individuals with severe
2 mental illness in their housing unit are not getting the
3 supervision that they need in order for them not to be
4 victimized.

5 Q. When you say "supervision," does that include security
6 supervision?

7 A. Yes.

8 Q. And in what way does security supervision affect whether
9 people with mental illness lose weight or lie in their feces
10 or live in those conditions?

11 A. Well, those conditions should be observed by the housing
12 officer and a referral made to the mental health staff if
13 it's -- somebody's covered in feces and sores, that should be
14 observed and referred.

15 Q. Even if they're referred, how do you address those types
16 of issues in the context of a jail?

17 A. Well, ideally you have a mental health unit and
18 individuals like that would be placed on the mental health
19 unit where there's specially trained staff and a much higher
20 level of mental health services.

21 Q. And have there been significant delays in getting
22 therapeutic housing programs for people with serious mental
23 illness?

24 A. Yes.

25 Q. And can you describe what those delays have been in this

1 case?

2 A. Well, we started talking about a mental health unit. I
3 think back in the beginning of 2020, or if not before, when
4 there was discussion about renovations, and that during the
5 renovations, that would be the perfect time to renovate one of
6 the units as a mental health unit. And so we were originally
7 talking about one of the units in C-pod because that was the
8 first to be renovated. And the decision was made not to
9 include the mental health unit in C-Pod, so that meant it had
10 to wait until B-Pod was renovated. And -- and the -- the unit
11 that's been designated to be the mental health unit is not
12 ready for occupancy, and it doesn't have the needed
13 furnishings for opening the unit as a mental health unit.

14 And then as we've talked about, the officers haven't been
15 trained and -- to work on the mental health unit. And right
16 now there's a significant shortage of medical and mental
17 health staff, so it really isn't sufficient mental health
18 staffing to open it either.

19 Q. Let's move on to another area. Have the defendants
20 implemented the consent decree provisions requiring continuous
21 improvement and quality assurance?

22 A. Not -- not entirely.

23 Q. What still needs to be done?

24 A. Well, there are specific requirements within those
25 paragraphs that are not fully implemented. The -- the work of

1 the quality assurance coordinator has been very good. Her
2 reports are very thorough and analytical. There are missing
3 data points, and also unfortunately the data that appears in
4 the reports, the underlying data, even though her narrative is
5 good, the underlying data is often very incorrect.

6 So, for example, in December she reported there had been
7 two uses of chemical spray during the month when, in fact, if
8 you review the incident reports, there actually had been eight
9 uses of chemical spray. The same was true with fires and
10 assaults, that her numbers were significantly off. And the
11 provisions require a little more data compilation than what
12 she's doing.

13 Q. And who is this quality assurance officer?

14 A. Her name is Priscilla Dawson.

15 Q. What impact did these deficiencies have on the
16 defendants' ability to self-correct a dangerous or
17 unconstitutional condition?

18 A. Well, you really have to know what's going on in the jail
19 in order to address any problems. So having the numbers on
20 the use of chemical spray be four times off is a significant
21 difference.

22 Q. Under the consent decree are defendants supposed to do
23 annual reassessments of their own compliance?

24 A. I believe so, yes.

25 Q. Are they doing that?

1 A. Not that I've seen.

2 Q. Are they supposed to do periodic reviews of their own
3 policies and procedures, even the ones that have been
4 approved?

5 A. Yes.

6 Q. Have they been able to do that?

7 A. No.

8 Q. What happens if somebody doesn't review their own
9 policies and procedures?

10 A. Well, then they don't get updated if they need to be
11 updated, and there may have been problems or it may be -- it
12 may become apparent that certain aspects of a policy aren't
13 implementable, and there has to be some look to revise them.

14 Q. When the sheriff brought more Tasers into the facility,
15 would that be an issue that would warrant a policy review?

16 A. Yes, because they hadn't been there before. Even though
17 the policy addresses electronic devices, there -- it wasn't
18 really fully thought out whether all of the things needed for
19 implementation of that were in the policy.

20 Q. And what types of things would you have addressed in a
21 policy review over the use of Tasers?

22 A. I think you'd want to do some of the things we talked
23 about before. You'd want to make sure it included inventory
24 review training for those officers that are allowed to carry
25 them, whether they should be maintained in the armory or, you

1 know, be on person at all times, and who those persons would
2 be.

3 Q. So did the sheriff's department consult with you before
4 bringing in more Tasers?

5 A. No.

6 Q. Let's move on to the CJCC. I know we talked about it a
7 bit, so let's go into it a little more depth. Have the
8 defendants implemented the consent decree provisions regarding
9 the Criminal Justice Coordinating Committee?

10 A. Not entirely.

11 Q. In what way have they not implemented the provisions?

12 A. Well, the provision for the CJCC requires that it have
13 sufficient expertise to do the work of the CJCC, and they do
14 not have a staff person who is doing the sort of data
15 compilation and analysis and sort of research on best
16 practices and providing that staff support that gives it the
17 expertise that's needed for the stakeholders to make the
18 decisions they need to make. It also requires -- the consent
19 decree also required that there be work specifically on
20 diversion programs.

21 I believe that was included in the strategic plan that
22 was done when JMI was still involved, but there has not been
23 any specific initiatives related to the diversion that have
24 been developed by the CJCC. And it requires that the CJCC
25 consultant be kept on to implement the diversion strategies,

1 and that has not been done.

2 Q. So this diversion program and JMI, is this the same JMI
3 that did not get to complete its project that you talked about
4 earlier?

5 A. Yes.

6 Q. Have you ever worked with a CJCC yourself?

7 A. Yes.

8 Q. And can you describe sort of how that process worked?

9 A. Well, when I started with Bernalillo County, there was --
10 it was coincidentally at the same time that there was
11 legislation creating a body that -- within Bernalillo County
12 that was much like a CJCC, although it wasn't called that, and
13 so when I started working on criminal justice reforms, I
14 worked very closely with the CJCC and created what we called
15 the core working group which was a working group of --
16 eventually became called the committee of the CJCC, and we
17 worked through the nuts and bolts of a lot of initiatives to
18 improve the system and reduce the jail population.

19 I also -- as I was describing, as needed -- did a lot of
20 research on best practices. I worked with some data people to
21 compile data that we needed. I wrote grant proposals. We
22 eventually became an official CJCC and did articles of
23 incorporation and joined the national CJCC network, *et cetera*.

24 Q. So this sort of network of sources, did you connect the
25 defendants to any of these networks for technical assistance?

1 A. Well, JMI is certainly -- would have been in a position
2 to continue providing that kind of technical assistance. I
3 also connected them to the National Institute of Corrections
4 that has training and has a lot of resources, but has training
5 for pretrial services programs and directors and -- and I --
6 I'm trying to think. Certainly some web-based resources in
7 that regard.

8 Q. And what type of follow-up did the County do or the
9 defendants do with this type of technical assistance?

10 A. Well, the national CJCC network has some very good
11 resources on their website regarding what a CJCC should look
12 like and the importance of staffing a CJCC and what that
13 staffing should look like. There's no indication that the
14 defendants reviewed or relied upon those to work with the
15 CJCC.

16 Q. Let's talk about that staffing issue. Have you
17 recommended that they staff the CJCC?

18 A. Yes.

19 Q. And what did you mean by staffing of the CJCC?

20 A. Well, as I described, there needs to be staff that sort
21 of research the data and the best practices to develop
22 initiatives that would improve the criminal justice system and
23 potentially reduce the jail population.

24 Q. And who would the staff report to, or who would they give
25 their information to?

1 A. It can -- it's done in various ways in various
2 jurisdictions, but they can potentially be under the Court.
3 They can be under the County. They can be under the City.
4 The jurisdiction itself would decide where they want to locate
5 them.

6 Q. Have they assigned employees from the sheriff's
7 department to work on the CJCC?

8 A. Yes, there is one individual that's assigned.

9 Q. So does that count, in your view, to staffing?

10 A. No. For one thing, she has a lot of other duties, and so
11 she really has not performed the things that I've described in
12 terms of data analysis and researching and presenting that
13 information to the CJCC. What I've seen of her work, it's
14 been more ministerial, keeping minutes, setting an agenda,
15 *et cetera*.

16 Q. Scheduling?

17 A. Scheduling.

18 Q. So you talked about sort of their noncompliance with the
19 CJCC committee provisions. What impact does this
20 noncompliance have on jail conditions?

21 A. Well, the goal of CJCC -- well, the CJCC has to set its
22 own goals. And there is a strategic plan that was developed
23 under JMI, and it includes diversion. And I believe it also
24 includes a pretrial services program, and both of those things
25 impact conditions in the jail in that they might reduce the

1 population of the jail so that it's not too -- gets them down
2 to a number where they might be able to provide appropriate
3 supervision. But the diversion programs as well ideally
4 address the ability to get mentally ill individuals out of the
5 jail, and those individuals often provide particular
6 management problems.

7 Q. When you assess the CJCC, have you required them to adopt
8 one remedy or another to reduce the population?

9 A. No.

10 Q. Have you assessed whether the CJCC is functional?

11 A. Yes.

12 Q. And does it appear to be functional to you?

13 A. It has not.

14 Q. Has the CJCC been meeting regularly in the last two
15 years?

16 A. No.

17 Q. And how often do they seem to meet?

18 A. I don't know that there is a regular pattern. I'd say at
19 best it's been -- well, they haven't had meetings with a
20 quorum, and it's been suggested that some meetings have taken
21 place with a small number of individuals and no minutes, and
22 then in some instances, a larger number of individuals but
23 still a lack of a quorum, so maybe an average of two a year.

24 Q. Did you hear the defense counsel's question what the
25 County could do about making other CJCC members such as the

1 DA, the mayor the City, the city police to participate in the
2 CJCC?

3 A. Yes.

4 Q. Is there anything the County can do, the defendants can
5 do to make the CJCC more effective?

6 A. Well, again, I would go back to staff, professional staff
7 that engages with the stakeholders and develops initiatives
8 that make it in the interest of the various stakeholders to
9 participate.

10 Q. And are there things that the County itself could do to
11 improve its own practices that would make the CJCC a useful
12 tool?

13 A. Well, I think it's important that they provide leadership
14 in participating in the CJCC. I think at the last CJCC
15 meeting there was participation by the sheriff and the County
16 administrator and the jail administrator. There hasn't always
17 been participation by all of those individuals in the past.

18 Q. Does the stipulated order include more specific
19 requirements for the CJCC?

20 A. It does include a requirement to hire a pretrial services
21 director and implement a pretrial program and hire a
22 consultant to assist in the development of that program.

23 Q. And what is the compliance status with the defendants of
24 this provision of the stipulated order?

25 A. This past November they hired a person to be the pretrial

1 services director. She has not yet received the training that
2 she needs, and there's no consultant to assist her in
3 implementing the program. And even what they have done is far
4 overdue under the stipulated order.

5 Q. You believe defendants have made a good faith effort to
6 address their criminal justice issues through the CJCC?

7 A. No.

8 Q. If the defendants don't make a good faith effort to
9 address the criminal justice issues, what effects will that
10 have on their efforts to implement the jail reforms?

11 A. Well, in almost anything impacting the number of people
12 in the jail, it requires the participation of other
13 stakeholders. It can be all of them or some subgroup of them,
14 and so it's really important that there be a forum for
15 addressing the jail-related issues that require the
16 participation of other stakeholders.

17 Q. Will their implementation of the diversion programs have
18 any effect on the mental health population of the jail?

19 A. It should. Typically that's the target population for
20 diversion programs.

21 Q. Is there anything about Hinds County that makes that
22 particular issue worth attention?

23 A. They have an unusually high percentage of people with
24 mental illness in their jail and pretty high acuity of
25 illness. So in -- and people with mental illness tend to stay

1 quite a bit longer than people without mental illness.

2 Q. Over the years you've been working with various
3 defendants. Have they ever commented to you about issues with
4 state or community mental health programs that impact on the
5 jail?

6 A. Yes. There have been concerns about the length of time
7 it takes to get somebody into the state hospital. That's been
8 an issue. There is an issue with -- even though Hinds County
9 Behavioral Health is a good organization, there's is an issue
10 with there being sufficient services and appropriate services
11 in the community to address this population. There's also an
12 issue of trying to develop a program with Hinds County
13 behavioral health where they come in and do their initial
14 assessments in the jail so that there can be a more smooth
15 transition into the community.

16 Q. Is that a discharge planning issue?

17 A. It's a discharge planning issue, but it's also sort of
18 what's considered in-reach that discharge planning very often
19 refers more to identifying the services a person needs in the
20 community and referring them to those services. A good
21 transition program also has in-reach where the community
22 provider comes into the jail so that the person is introduced
23 to that provider and is already in their system prior to
24 release.

25 Q. You may have heard defense counsel allude to the sheriff

1 having officers in the field and questioning whether
2 Mr. Parrish understood what other priorities the sheriff's
3 department may have in the community. Do you recall that?

4 A. Yes.

5 Q. If the defendants don't implement the CJCC, could there
6 be any impact on local public safety or the criminal justice
7 system generally?

8 A. Yes. Well, first of all, I would think -- I would
9 consider the detainees and staff within the jail to be members
10 of the public, and so their -- some of these initiatives would
11 impact their safety. In addition, as I mentioned before,
12 there's very good research that if low- and medium-risk
13 individuals are held in the jail for even relatively short
14 periods of time as opposed to being released more promptly,
15 there's an amazingly high incident of recidivism, and
16 certainly with respect to mental health individuals, the --
17 the risk to both that individual and the public is enhanced
18 without getting them diverted into appropriate programs.

19 Q. You talked earlier about in and outs when an officer
20 arrests someone, and then they're released on their own
21 recognizance?

22 A. Yes.

23 Q. Does that have any potential effect on public safety if
24 it's not done correctly?

25 A. Yes. I mean, you know, there's a process that exists for

1 a reason, and that's -- a judge makes that decision, or it's
2 delegated to the jail with specific criteria. So if that
3 decision is being made without those safeguards, there's a
4 potential that somebody is released that poses a risk to
5 public safety.

6 Q. When you talked about delegation to the jail, what are
7 the type of standards that could be used to delegate to the
8 jail?

9 A. Typically the release authority delegated would include
10 the specific type of charge that can -- the person can be
11 released on and infrequently some criteria related to the
12 individual's criminal history, like perhaps it's their first
13 offense or maybe only limited prior low-level offenses, so
14 that's the type of document order Court rule that you would
15 expect to see that delegates release authority.

16 Q. So when you say "delegate release authority," who does
17 the delegating?

18 A. The court.

19 Q. Is it something that can sort of be done by local
20 officers?

21 A. No.

22 Q. Have you ever heard that at the jail they have some
23 issues with people charged with domestic violence, that
24 there's some rule about whether they can release people
25 charged with domestic violence?

1 A. I heard testimony sort of related to that.

2 Q. Would that be a category that could be covered by some
3 type of policy on who can be released or not released?

4 A. Yes. I mean, when the delegated release authority is
5 fleshed out it could exclude the authority to release
6 individuals charged with domestic violence.

7 Q. And would this be the type of issue that should be
8 brought up with the CJCC?

9 A. It's an issue that certainly could be.

10 Q. Have they actually tried to address this type of issue
11 with the CJCC?

12 A. The domestic violence issue?

13 Q. Yes.

14 A. Not that I know of.

15 Q. I'm going to talk more generally about the stipulated
16 order. Have the defendants implemented the stipulated order?

17 A. Some provisions of it, but not in its entirety.

18 Q. And in your monitoring reports you describe what they
19 have complied with and what they haven't complied with?

20 A. Yes.

21 Q. To the extent they have not implemented the stipulated
22 order what harm or serious risk of harm will result or could
23 result from this failure?

24 A. Well, there's a number of provisions, so different harm
25 might result from different provisions. You know, for

1 example, they're not supposed to be using the individual cells
2 in booking for housing without having changed the doors to
3 include a way to see in to those cells. The idea was once C4
4 opened, they wouldn't use those individual cells at all. But
5 if they are using them they're supposed to have the window so
6 it can be seen in.

7 So, you know, without that, bad things can happen,
8 including the suicide that happened there last spring. You
9 know, the sort of failure to renovate the pods in the time
10 frame that was set forth in the stipulated order certainly
11 contributes to harm in that, you know, they still have
12 detainees in A-Pod without -- without doors that lock, so and
13 so on.

14 Q. Were there also requirements for staffing or jail
15 leadership?

16 A. Yes.

17 Q. And did they comply with those provisions?

18 A. The -- I think it required that they post -- they revise
19 the jail administrator position and post that, which they did.
20 And then the -- I can't remember if that hiring process was
21 timely. So that's what I remembering.

22 Q. Was that the process that led to hiring Ms. Bryan?

23 A. It resulted in the hiring of, they called him
24 Warden Fielder first. And then he left the position and then
25 Major Bryan was hired in it.

1 Q. Did they go through that process for hiring Mr. Shaw?

2 A. I don't know that the position was posted that I'm aware
3 of.

4 Q. So if it wasn't posted would it have been in compliance
5 with the stipulated order?

6 A. I don't believe so.

7 Q. Did they implement the pretrial services provisions of
8 the stipulated order?

9 A. Well, they have now hired a pretrial director. That was
10 very much after the deadline included in the pretrial -- in
11 the stipulated order. And they did not hire or contract with
12 a consultant to assist with that implementation. And so the
13 other provisions related to pretrial are similarly overdue.

14 Q. And was Mr. Rivera's hiring also covered by the
15 stipulated order?

16 A. It is, yes.

17 Q. And were there any delays with implementing that
18 provision?

19 A. There weren't any delays. As I've mentioned, the County
20 did not contract with him, but they agreed to pay for his
21 services through my contract.

22 Q. Let's go back to pretrial services. The current pretrial
23 services director, did you mention something, did you say
24 something about they need -- they were going to go get some
25 more training?

1 A. The stipulated order requires that they participate in
2 the NIC training for new pretrial services directors.

3 Q. And before the new director gets the training is the
4 director qualified to provide or develop a pretrial services
5 program?

6 A. Well, she's not really knowledgeable about what a
7 pretrial services program is. You know, there's not a program
8 running right now. So as its developed she would hopefully
9 develop that knowledge base.

10 Q. If we could pull up Plaintiff's Exhibit 76. And it might
11 be easier to go through 76 through 83 in the binder, if you
12 could go through those at once.

13 A. Yes, I have it.

14 Q. Do you recognize Plaintiff's Exhibit 76 through 83?

15 A. Through 83 did you say?

16 Q. Yes.

17 A. Yes.

18 Q. Actually, let me correct. That's actually Plaintiff's 77
19 through 83.

20 Do you recognize Plaintiff's Exhibit 77 through 83?

21 A. Yes.

22 Q. And what are those exhibits?

23 A. Those are some resources that I provided to the
24 pretrial -- the new pretrial services director, as well as
25 Ms. Tanecka Moore.

1 Q. And have you provided these materials before to
2 defendants?

3 A. Most of them, yes.

4 Q. And why did you provide these materials?

5 A. They provide a pretty good basis for understanding pretty
6 -- a pretrial services program and how to develop one and what
7 it includes.

8 Q. Who else have you shared this type of technical
9 assistance material with over the years you were serving as
10 monitor?

11 A. I provided it to the County administrator Carmen Davis
12 and the person who was designated at one point to work on a
13 pretrial program, Kenny Lewis. I believe I've provided it to
14 counsel when I provided it to Ms. Davis, and then to
15 Ms. Moore, and then ultimately to Ms. Boykins (phonetically).

16 Q. And what progress, if any, did they make with the
17 pretrial program when you provided these materials?

18 A. None really.

19 Q. Did they do anything with your recommendations about
20 pretrial services?

21 A. Well, they did hire somebody recently to serve as the
22 pretrial services director but -- and Ms. Moore did submit an
23 application to be a learning site for pretrial, but that
24 application was denied.

25 Q. Why was it denied?

1 A. Because the -- it didn't have the support of the city of
2 Jackson and the Jackson Police Department is what we were
3 told.

4 Q. Can you describe what each of these documents, in a
5 summary way, what they are for or why you think they're
6 useful?

7 A. Well, the link to the advancing pretrial implementation
8 guide is sort of different modules that actually walk a
9 jurisdiction through implementing a pretrial program.

10 MR. CHENG: If I could interrupt. I understand
11 Dr. Dudley and Mr. Moeser just got cutoff from Zoom. Can we
12 maybe -- right now for a moment --

13 MS. SUMMERS: I know. I was waiting for you to --

14 MR. CHENG: Does that work or we can continue?

15 THE COURT: Just hold on for a second.

16 MR. CHENG: May I continue?

17 BY MR. CHENG:

18 Q. So going back, what are these different documents you're
19 providing to the County?

20 A. So I don't know if you want me to go through them one by
21 one, but they are -- well, one is a paper put out by the
22 chiefs of police recommending the use of pretrial services
23 programs. It's somewhat dated, but I don't know that there's
24 been a subsequent document by the International Association of
25 Chiefs of Police. And when Ms. Moore indicated that one of

1 the difficulties was that the chief of police didn't support
2 the pretrial program, I sent her this document to share with
3 the chief of police that it's -- pretrial programs are
4 generally considered a better public safety measure than bail,
5 which is --

6 Q. Is this the same chief of police who because of their
7 nonparticipation, the NIC assistance failed?

8 MR. SHELSON: Objection. Leading.

9 THE COURT: Don't lead the witness. Objection
10 sustained.

11 BY MR. CHENG:

12 Q. Which chief of police are we talking about?

13 A. The city of Jackson chief of police who reportedly did
14 not support the application for becoming a learning site. The
15 other, sort of more generally, are kind of primers on what a
16 pretrial services program looks like, what risk assessment
17 entails. And, yeah, they're pretty good primers. The last
18 one I think is the National Association of Pretrial Services
19 Agencies standards on pretrial release.

20 Q. So what are these organizations that you're getting the
21 materials from?

22 A. It include the National Institute of Corrections, the --

23 Q. Is that the federal National Institute of Corrections?

24 A. Yes. And the National Institute of Justice, I think the
25 Pretrial Justice Institute was the author of one of the

1 documents. And the National Association of Pretrial Services
2 Agency was the author of one of them or the standards.

3 MR. CHENG: Your Honor, at this time I move for the
4 admission of Plaintiff's Exhibits 77 through 83.

5 THE COURT: Any objection from defendant?

6 MR. SHELSON: No, sir.

7 THE COURT: That's 77 through 83?

8 MR. CHENG: Yes.

9 THE COURT: They'll be received into evidence.

10 (Plaintiff's Exhibits 77 - 83 entered.)

11 BY MR. CHENG:

12 Q. Let me cover a few things I need to follow up on. You
13 talked earlier about Hinds County Behavioral Health?

14 A. Yes.

15 Q. In addition to people coming on-site, do health providers
16 also sometimes use virtual methods in order to provide
17 consultation or services in the jail?

18 A. Yes. In some jurisdictions they do.

19 Q. Are there any issues with trying to provide those
20 services in this particular jail, the Hinds County Jail?

21 A. I think one of the ideas with getting the additional
22 video kiosks that had been included in the new Securus
23 contract was that they could be used, not just for attorney
24 visits or personal visits, but also for medical and mental
25 health consultations.

1 Q. What happened with that initiative?

2 A. The contract was approved. The units are not on-site at
3 this time. I don't know the reason why.

4 Q. We talked a little bit about in-reach.

5 A. Yes.

6 Q. Would video consultation be related in any way to
7 in-reach?

8 A. In-reach could be done through video consultation.

9 Q. Let me go -- let's go back to Plaintiff's Exhibit 76.

10 A. That's about Tasers?

11 Q. Yes. I believe it was previously admitted as Plaintiff's
12 Exhibit 76.

13 A. Yes.

14 Q. Did you have any concerns when you heard about this issue
15 from Ms. Bryan?

16 A. Yes.

17 Q. And what were your concerns?

18 A. Well, one concern was that the sheriff issued the
19 directive to Chief Simon instead of communicating with
20 Major Bryan. The other concerns that Major Bryan raised in
21 this e-mail seem to be legitimate concerns.

22 Q. We talked earlier also about the in and outs?

23 A. Yes.

24 Q. Would having a pretrial services or a pretrial program be
25 better than the in and outs approach?

1 A. Well, it's not uncommon for pretrial services agencies to
2 have some form of delegated release authority. It would still
3 require that there be a court order or a court rule that sets
4 forth what that delegated release authority is. And it often
5 does include the ability of a pretrial agency to release
6 individuals. Typically it's done after running the criminal
7 history and doing an interview, so that it would be based on
8 solid information.

9 Q. What benefits would there be to having a pretrial program
10 instead of some of these other methods being used by the Hinds
11 County Jail for deciding who comes in and out of the jail?

12 A. Well, there's usually a process, like I said, by which
13 they run the criminal history and they interview the defendant
14 and they communicate with the Court if there's a question.
15 And they -- and their authority is circumscribed by a document
16 from the court, so that it's consistent and, you know, within
17 the authority that's delegated.

18 Q. Within the authority set by the court?

19 A. Yes.

20 Q. You mentioned earlier risk assessments. What do risk
21 assessments have to do with the pretrial program?

22 A. So typically what a pretrial services program does is
23 that it uses an objective tool to measure the risk that a
24 defendant poses on two scales. One is risk of reoffense, and
25 the other is the risk of failure to appear. And it usually

1 comes up with a numerical score. Either one score that
2 encompasses both or, like, the Arnold Public Safety Assessment
3 has a different score for those two axes. And then that
4 information is reported to the judge, so that the judge can
5 utilize that in making a release decision.

6 Q. And would a system like that, you know, have any
7 advantages over, say not admitting misdemeanants?

8 A. Yes, because there are potentially violent individuals.
9 There are individuals with a history, a criminal history that
10 would indicate likelihood of re offense. And they might be
11 charged with a misdemeanor on that particular occasion. And
12 so even though they're charged with a misdemeanor that may be
13 somebody that you don't want to release or the court doesn't
14 want to.

15 Q. So would requiring the defendants to implement the
16 pretrial program requirements -- the stipulated order -- be of
17 any benefit to the local criminal justice system or public
18 safety?

19 A. Yes. You know, I mean, moving to a risk-based system of
20 making release decisions is definitely in the interest of
21 public safety. And I -- obviously the judges currently are
22 making decisions based on the level of risks they perceive a
23 defendant to have. But, you know, certainly the research is
24 that using an objective risk-based tool, a risk assessment
25 tool has proven more effective in actually identifying people

1 that pose a risk.

2 Q. When you were discussing the in and out system, was there
3 any indication that the arresting officers make the same types
4 of assessments the judges make?

5 A. Again, I think they're probably making a subjective
6 decision with respect to risk. But like, with judges,
7 subjective decisions have proven less accurate than an
8 objective risk assessment tool.

9 Q. And these objective risk assessments, do they gather any
10 information or additional information for that decision-making
11 process?

12 A. Yes. So, for example, the public safety assessment,
13 often called the Arnold tool requires extensive information on
14 the criminal history, how many prior convictions the
15 individual has, whether those convictions are for a violent
16 offense, how many prior FTAs, whether the person is under
17 supervision at the time of the alleged offense, and so on.

18 Q. What's an FTA?

19 A. A failure to appear.

20 Q. Are pretrial systems are pretrial programs like you're
21 describing novel to Mississippi?

22 A. Well, the federal court system adopted a pretrial program
23 I think back in the 1960s, so that's in existence. I would
24 assume here in Mississippi, it's been part of the federal
25 system for decades.

1 Q. Did you explain that to any of the defendants or their
2 staff?

3 A. I think -- I know I talked about it with Ms. Boykin,
4 because I suggested she might consider visiting with the
5 pretrial program in the federal system here.

6 Q. Have you told any of the County administrators?

7 A. I believe I talked with Ms. Davis about it.

8 Q. And who is Ms. Davis?

9 A. Carmen Davis was the County administrator when we started
10 monitoring. And I believe I had the conversation with
11 Ms. Barker and the compliance coordinator Synarus Green
12 regarding that, too.

13 Q. I want to talk a little bit about sort of some of the
14 causes or issues that seem to affect the jail. Have other
15 corrections professionals besides your team expressed concerns
16 about the dangerous systemic conditions in the jail?

17 MR. SHELSON: I object, Your Honor, if she's going to
18 testify as to hearsay.

19 THE COURT: Is that information part of her reports,
20 any of her monitoring reports?

21 MR. CHENG: Some of it is. I think I can make it a
22 little clearer on that issue.

23 THE COURT: Okay.

24 BY MR. CHENG:

25 Q. Have other corrections professionals working for the

1 sheriff's department expressed concerns about dangerous
2 systemic conditions in the jail?

3 A. Yes. I mean certainly Major Bryan has talked about that.
4 And that has been -- well, so for example, in the last quality
5 assurance report -- well, in most of the quality assurance
6 reports the QA officer has talked about dangerous conditions.
7 The January one was pretty stark in that she said that most of
8 the female officers won't go into housing unit A1 because of
9 their fear, and that she, in fact, had decided not to go in to
10 A1 because of her fear. So, yeah, and we hear from other
11 officers as well that one of their concerns is the safety of
12 working there.

13 Q. Is this something that just happened in the last year or
14 has it been a longer standing issue?

15 A. It's been a longer standing issue.

16 Q. How about lower-level staff? Have you heard anything
17 from jail captains, lieutenants, or line-level officers
18 expressing concerns about the dangerous conditions in the
19 jail?

20 A. Yes. Well, like the comment in the QA report coming from
21 female officers that was lower-level officers. And, for
22 example, there was an incident report in January where the
23 officer indicated feeling in danger because cells didn't lock
24 or didn't function -- cell doors.

25 Q. And have staff actually walked out of the jail because of

1 the conditions?

2 A. Yes, there was a walkout. I think it was in November or
3 late October or early November.

4 Q. You know, the defendants have now moved to terminate the
5 consent decree. Are you aware of that?

6 A. Yes.

7 Q. Given the defendants' present course of action, do you
8 think their new jail administrator will be able to make the
9 jail a safe and constitutional facility?

10 A. No.

11 Q. Why not?

12 A. Well, as previously mentioned, I have some concerns about
13 whether the new jail administrator is -- has the appropriate
14 experience to do his job. I also am somewhat confused as to
15 whether he's an interim jail administrator or is intended to
16 be permanent. We have been told at one point that there would
17 be a national search, but it now seems that it's represented
18 that he's the jail administrator. So I don't know if we're
19 still in a period of transition and don't even know who the
20 new jail administrator is or will be.

21 Q. Let me follow up on that. This national search, when did
22 they say they would do a national search?

23 A. My recollection is that it might have been during the
24 site visit, that that was the representation. No, that
25 wouldn't be -- I'm sorry -- because she was still on board at

1 that time. Sometime after. It might have been one of the
2 status conferences that we had with the Court.

3 Q. But as far as you know, was there ever a national search
4 for the jail administrator?

5 A. Not -- not in this time frame.

6 Q. Now, we talked earlier about technical assistance. Do
7 you also provide an exit interview after each site visit?

8 A. Yes.

9 Q. Do you provide recommendations for technical assistance
10 at the exit interviews?

11 A. Yes.

12 Q. And in years past, who normally showed up at the exit
13 interviews?

14 A. Well, both on-site and remotely, we usually had pretty
15 broad participation. It was usually the jail administrator
16 and the assistant administrator and the captains and the
17 sheriff and the undersheriff and the sheriff's attorney and
18 the board attorney and the County administrator and the --
19 usually some representation from the Board of Supervisors
20 and -- yeah.

21 Q. Any health care contractors or other contractors attend?

22 A. Yes. I think maybe not as routinely, but I think they
23 sometimes did.

24 Q. And after the exit interviews, do you ever do any
25 follow-up to see whether anyone took your advice from the exit

1 interview to do anything?

2 A. Well, sometimes we have further communication with them
3 either to provide that technical assistance to move those
4 suggestions forward or in some cases follow-up questions or
5 follow-up requests for documents. So there is communication
6 in between site visits in which we sort of check in and see
7 what's happening.

8 Q. Did any of the defendants or their employees attend the
9 most recent interview?

10 A. One of the defense attorneys did.

11 Q. Anyone else?

12 A. Ms. Moore. Tanecka Moore.

13 Q. Who is Tanecka Moore?

14 A. I understood her to be called the court liaison, but I
15 think her real title is something else. It's court -- I'm
16 sorry; I'm not remembering.

17 Q. Did that attendance level concern you?

18 A. Well, it seemed like we weren't getting the information
19 out to everybody that could potentially use that information.

20 Q. And would that have any impact on the defendants' ability
21 to implement the consent decree or the stipulated order?

22 A. I think -- I mean, they'll eventually get that
23 information in the form of a report, but it would be useful to
24 get it during an exit conference when it could be discussed
25 and questions answered.

1 Q. How would you characterize the amount of work that still
2 needs to be done in order for the jail to be a reasonably safe
3 and secure detention facility?

4 A. A lot of work needs to be done.

5 Q. Do you have any opinion as to whether there's a grave and
6 immediate threat of harm to detainees in the jail?

7 A. Yes.

8 Q. And what is that opinion?

9 A. I believe there is.

10 Q. And what's the basis for saying that?

11 A. The number of assaults that we see and the seriousness of
12 those assaults is very troubling. It suggests that the
13 detainees are at serious risk of harm.

14 Q. So have you addressed any of these grave risks in your
15 monitoring reports?

16 A. Well, we always talk about the level of staffing and the
17 lack of supervision of the inmates as well as cell doors that
18 still don't lock, and, of course, the mental health issues
19 that are not being adequately addressed.

20 Q. How about use of force?

21 A. The use of force, we talk about the uses of force that
22 are in violation of the policy in the settlement agreement.

23 Q. How about the lack of investigations or reporting does
24 that pose any type of grave danger to inmates?

25 MR. SHELSON: Objection. Leading.

1 THE COURT: Objection sustained.

2 BY MR. CHENG:

3 Q. Let me ask you another question. Have lesser measures to
4 achieve compliance with the Court's orders been attempted?

5 A. Well, certainly starting out with priority
6 recommendations was an effort to provide sort of good guidance
7 on how to come into compliance. As that progressed and we
8 weren't having a lot of success there, I actually started
9 doing a weekly action item list that I provided to the
10 defendants. Ms. Barker took that over for a little while, but
11 then it sort of disappeared.

12 And then there was the road map that I provided to try to
13 give step by step how to move towards compliance, and then the
14 stipulated order itself, of course, was intended to provide --
15 to break the steps up into more manageable steps to achieve
16 compliance.

17 Q. And how did the defendants do at implementing these
18 lesser measures?

19 A. Not -- not well. They always -- it always seemed to sort
20 of dissipate. There would start out to be some energy around
21 it, and then it would dissipate.

22 Q. What will happen if we continue this case without a
23 receiver or outside management of the jail?

24 A. I think we will not see the kind of improvements that we
25 need to see.

1 Q. And why do you believe that?

2 A. Well, because we've been at this for five years, and as
3 you asked, we made a lot of efforts to try to assist
4 defendants to come into compliance and without seeing much
5 fruition there as well as sort of the -- what we often see is
6 sort of an effort made and then it goes away, or something
7 that's represented and then it doesn't happen, lengthy delays.
8 So there just isn't a strong indication of progress.

9 Q. What if the Court issues more orders requiring specific
10 remedies. Will that result in timely compliance with the
11 consent decree?

12 A. Well, based on the results of the last stipulated order,
13 I would say no.

14 THE COURT: At this time, I believe it's an
15 appropriate -- I think it's a shifting point for you.

16 MR. CHENG: Yes, Your Honor, I feel like I should
17 follow Ms. Vera's lead. We're at that point of just a few
18 more questions, but maybe in the morning would be the easiest
19 way to wrap up.

20 THE COURT: Let's do that. It's after 5:00 now, and
21 we've been going all day practically. So we'll -- again, I'm
22 giving you all the time that you need. I don't want anyone to
23 feel rushed. But this will conclude our testimony for today,
24 and we will be prepared to start back up at 9:00 in the
25 morning.

1 Is the expectation on the Government, or the United
2 States, that the United States may rest its case in chief
3 tomorrow?

4 MR. CHENG: Yes, Your Honor.

5 THE COURT: Okay. And depending on what time that
6 might be, the defendants ought to be prepared to begin their
7 case. It just depends on how long everything goes. You
8 should be prepared to begin to put on your witnesses tomorrow.

9 MR. CHENG: Your Honor, my understanding is they have
10 notified us they intend to call two witnesses, Mr. Farr and
11 Mr. Chamblee. I believe that's correct; right?

12 THE COURT: Okay. Mr. Chamblee. And who is the second
13 one?

14 MR. CHENG: Mr. Farr.

15 THE COURT: Oh, Farr and Chamblee. All right.
16 Anything else we need to take care of?

17 MR. CHENG: The only question is it's just going to be
18 the two, knowing that we should be wrapping up tomorrow
19 morning with the U.S. case in chief.

20 THE COURT: I'm sorry?

21 MR. CHENG: I guess the only question on our end is
22 whether there will only be two witnesses for the defendants
23 tomorrow. Assuming we wrap up pretty quickly tomorrow
24 morning --

25 THE COURT: Well, it depends on how -- let's just say

1 that Ms. Simpson doesn't get off the stand completely until
2 noon and then we take our lunch break, and then I don't know
3 how long Mr. Farr or Mr. Chamblee will be. But if those
4 are -- if those are the only two people you know about, those
5 would be the only two people who will testify tomorrow
6 regardless of where we are.

7 MR. CHENG: Fair enough, Your Honor.

8 THE COURT: Anything else we need to take up?

9 MR. CHENG: No, Your Honor.

10 THE COURT: All right. Okay. All right. Well, we'll
11 be in -- court is recessed. We'll start back up at about 9:00
12 tomorrow morning. Thank you so much.

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COURT REPORTER'S CERTIFICATE

I, Candice S. Crane, Official Court Reporter for the United States District Court for the Southern District of Mississippi, do hereby certify that the above and foregoing pages contain a full, true, and correct transcript of the proceedings had in the forenamed case at the time and place indicated, which proceedings were stenographically recorded by me to the best of my skill and ability.

I further certify that the transcript fees and format comply with those prescribed by the Court and Judicial Conference of the United States.

THIS, the 22nd day of February, 2022.

/s/ Candice S. Crane, RPR CCR

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